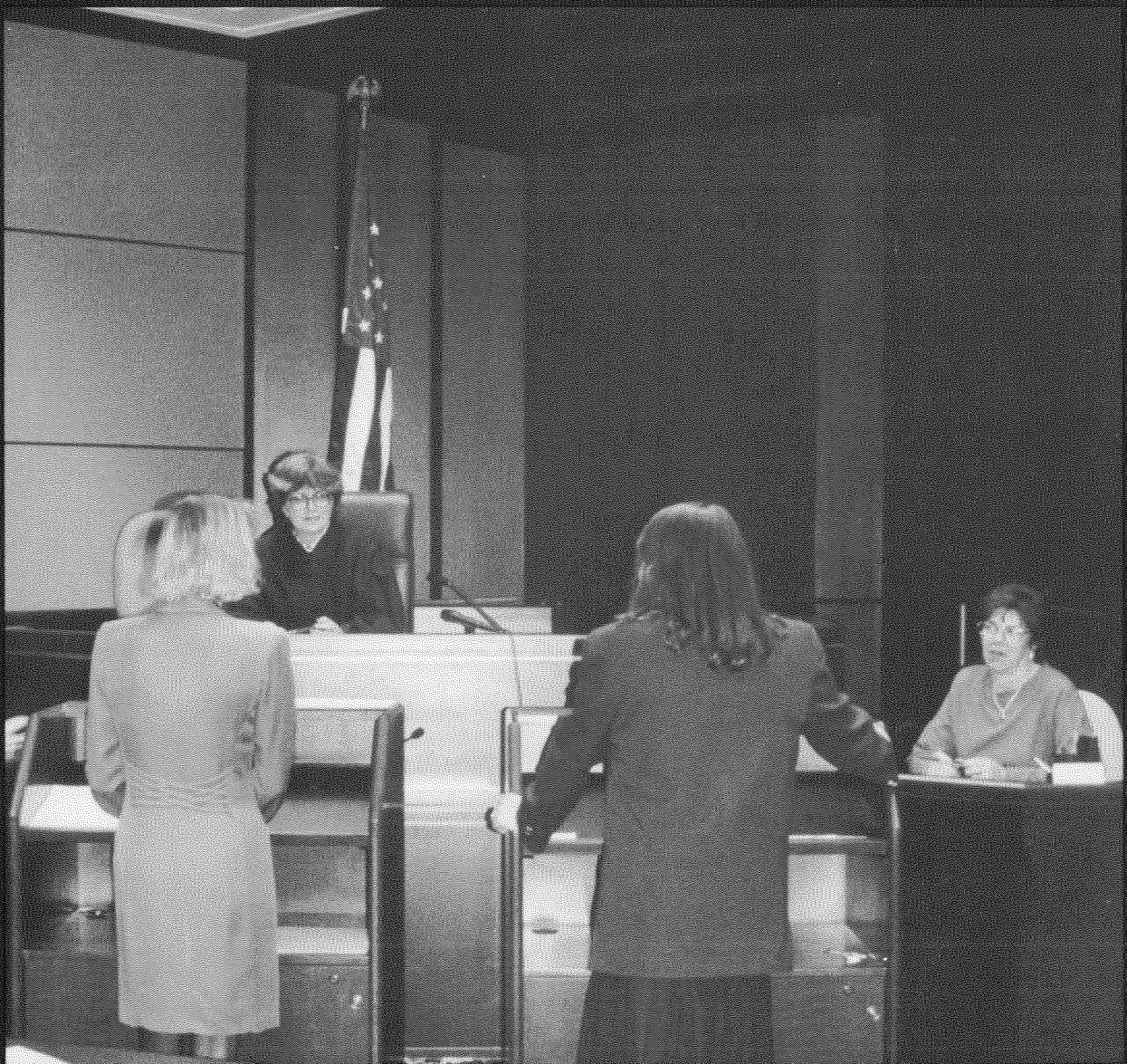


Non-Felony Prosecution

April 1997

A BEST PRACTICES REVIEW



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Office of the Legislative Auditor
State of Minnesota

Program Evaluation Division

The Minnesota Office of the Legislative Auditor was established in 1973, replacing the century-old Public Examiner's Office. Its role is to audit and evaluate public programs and ensure accountability for the expenditure of public funds. In 1975, the Legislature created the Program Evaluation Division within the auditor's office. The division's mission, as set forth in law, is to determine the degree to which activities and programs entered into or funded by the state are accomplishing their goals and objectives and utilizing resources efficiently.

The division conducts a variety of studies for the Legislature: *program reviews*, which describe state programs; *program evaluations*, which examine whether programs are implemented efficiently and achieving results; *performance report reviews*, which assess state

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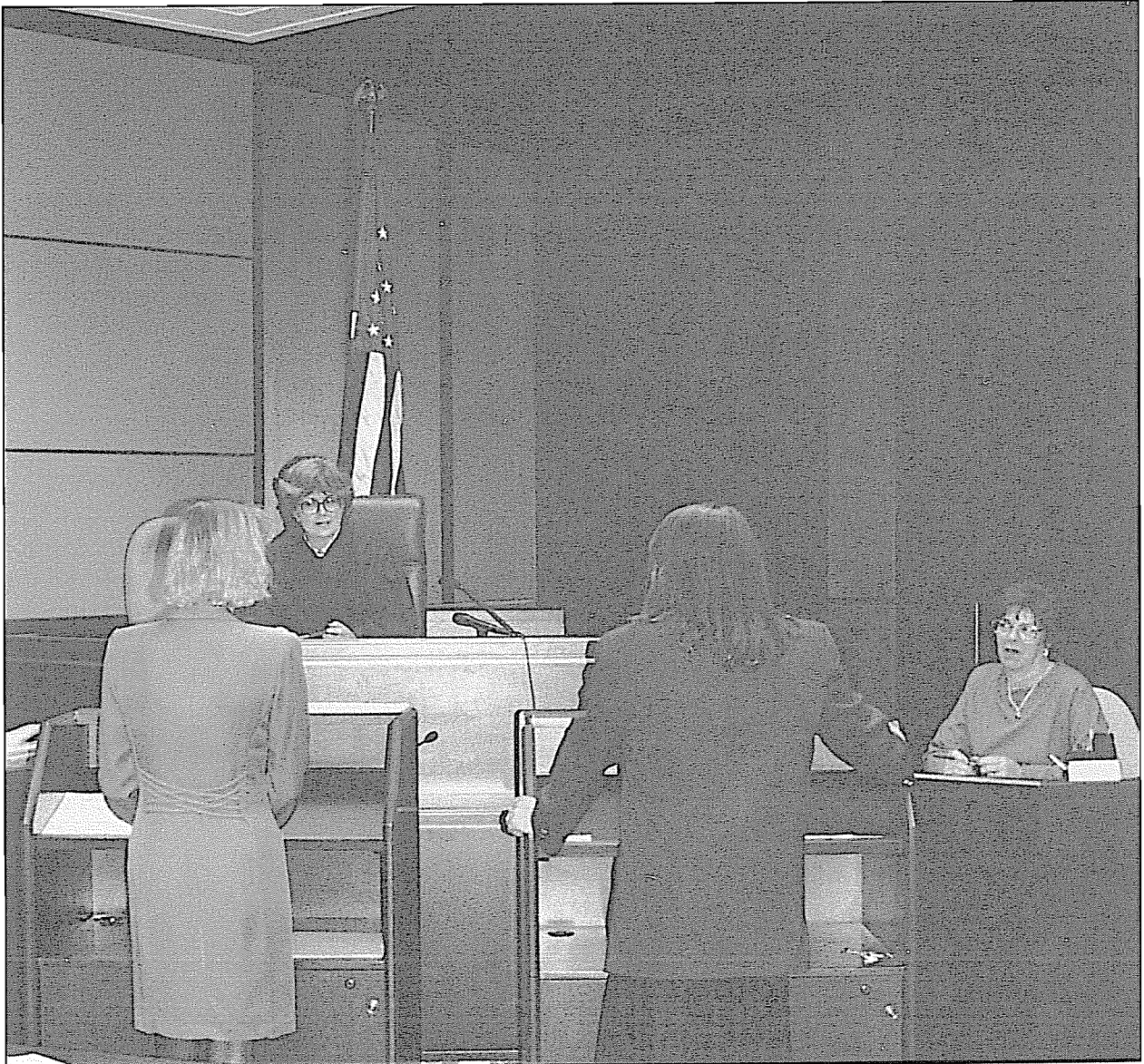
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Non-Felony Prosecution

Report #97-07

April 1997

A BEST PRACTICES REVIEW



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Preface

This report is a best practices review, a relatively new kind of report from the Legislative Auditor's Office. In the report we examine the prosecution of non-felony offenses in Minnesota — including offenses defined as gross misdemeanors, misdemeanors, petty misdemeanors, and ordinance or rule violations.

The report is intended as a source of ideas that may be helpful to counties and cities around the state. We hope that Minnesota's local governments will actively use this report to examine their own practices and consider alternative ways of delivering the service of misdemeanor prosecution as effectively and efficiently as possible. While we understand that every practice cannot, and should not, be adopted everywhere, we identify many ideas — some conventional and others evolving — that could prove useful for prosecutors around Minnesota.

DEFINITION OF A BEST PRACTICES REVIEW

This study is the third best-practices review completed by the Office of the Legislative Auditor. In 1994 the Legislature gave responsibility to our office for conducting best practices reviews of local government services in Minnesota.¹ The Legislature

created this tool to identify practices for delivering local government services more efficiently or more effectively. Our approach is similar to one used by the British Audit Commission in England and Wales to determine the state of the art in the delivery of local services.

While traditional auditing identifies organizational and performance deficiencies, best practices reviews identify successes in the design and delivery of services. Success is defined as achieving a high level of desired efficiency and effectiveness within cost constraints. The Legislature hopes that communities can improve their service delivery by learning about effective methods used by similar jurisdictions.

SELECTION OF THIS TOPIC FOR REVIEW

A committee of local government representatives recommended the topic of non-felony prosecution for review. When the 1994 Legislature established the best practices reviews program, it created a local government advisory council to help the Legislative Audit Commission select topics for study. The eight-member advisory council consists of three members appointed by the League of Minnesota Cities, three by the Association of Minnesota Counties, and two by the Association

Our best practices reviews look at effective and efficient methods of delivering local government services.

¹ Minn. Stat. §3.971, subd. 4.

of Metropolitan Municipalities. (Appendix E lists current council members.) Over the winter of 1995-96, the advisory council considered topics and recommended this review. The Legislative Audit Commission approved the council's recommended topic in June 1996.

ASSISTANCE OF PROSECUTORS AND OTHERS

We appreciate the assistance of many county attorneys, city prosecutors, court administrators, judges, violations bureau staff, victim and witness assistance program staff, the Minnesota County Attorney Association, League of Minnesota Cities, and State Court Administration staff who provided us with information through surveys and interviews. The report was researched and written by Jody Hauer (best practices coordinator), Jennifer Moenck Feige, and Mary Jackson, with technical assistance from Mitch Rothman.

*St. Paul, Minnesota
April 1997*

Non-Felony Prosecution

A Best Practices Review

SUMMARY

This is a review of non-felony offense prosecution in Minnesota. Non-felony offenses — gross misdemeanors, misdemeanors, petty misdemeanors, and ordinance or rule violations — constituted nearly 99 percent of all Minnesota offenses in 1995. County and city attorneys have responsibility for prosecuting these offenses and seeing that justice is served.

This review focuses on the characteristics of effective and efficient prosecution offices. We did not study the many actions taken by individual prosecutors involved in a case, nor did we analyze different approaches for dealing with criminal behavior in other ways, such as through “restorative justice” programs.

NON-FELONY PROSECUTION AUTHORITY IN MINNESOTA

Each of Minnesota’s 87 counties has an elected county attorney who prosecutes felony offenses. Most of these county attorneys also have responsibility for at least some non-felony prosecution. County attorneys located outside the seven-county metropolitan area generally have jurisdiction over more gross misdemeanors than those in the metropolitan area where city

*This review
focuses on
effective and
efficient
actions to help
prosecution
offices meet
their goals.*

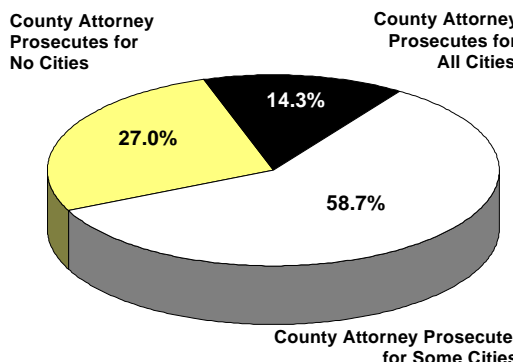
prosecutors have that duty. Although the types of offenses for which city prosecutors have authority vary somewhat around the state, the city prosecutors’ authority is always independent of the county attorney. That is, county attorneys have no oversight role over city prosecutors located in their county.

The extent of authority for non-felony prosecution varies from county to county. About 14 percent of county attorneys’ offices prosecuted all non-felony offenses in their counties in 1995.¹ In these counties, no municipality had its own city prosecutor. In about 59 percent of Minnesota counties, the county attorney prosecuted non-felony offenses on behalf of some but not all communities. In another 27 percent of counties, the county attorney prosecuted non-felonies on behalf of no community in the county. All cities in these counties employed their own city prosecutors. (See the following figure.)

When looking at Minnesota cities, we found that about half of those we surveyed relied on the county attorney for non-felony prosecution in 1995 and most of the rest retained private law firms for prosecution duties. About a dozen cities, most with populations of at least 50,000, had their own full-time attorneys on staff. A handful of cities created

¹ Data on prosecution arrangements come from a survey we conducted of county attorneys and city prosecutors. We received responses from 77 percent of the 87 county attorney offices and 68 percent of the 533 cities we surveyed.

Non-Felony Prosecution in Minnesota Counties, 1995



Source: Legislative Auditor's Office Survey of County and City Attorneys, 1996.

joint powers arrangements to jointly provide prosecution services through a common provider.

GOALS, ACTIONS, AND BEST PRACTICES

Based on established standards and laws, we identified four primary goals for effective and efficient prosecution offices. These goals come from statutes, rules of criminal procedure and professional conduct, and national standards for criminal justice, with which prosecutors are already familiar. Prosecution offices should:

- **Fulfill their statutory obligations and adhere to relevant ethical standards.**
- **Encourage just and fair criminal proceedings and resolutions of infractions that are unhampered by unjustifiable expense and delay.**
- **Communicate clearly with local law enforcement personnel, and encourage effective communication from law enforcement, in a shared effort to combat crime and promote law-abiding activity.**
- **See that justice is served by maintaining a judicious balance between protecting the**

rights of society and those of individuals involved in cases.

We identified nine actions (described below) that we believe will help prosecution offices reach these goals. They are not the only actions that affect the performance of prosecution offices, but they are important for successful prosecution. We used the goals and actions as a framework for identifying best practices in prosecuting non-felony offenses. Along with a brief description of the nine recommended actions, we describe examples of how some Minnesota counties and cities have implemented them in actual practice.

Nine Actions for Non-Felony Prosecution Offices

1. Provide efficient and effective service delivery.
2. Maintain good relations with local law enforcement.
3. Encourage administrative processes and pretrial diversion for suitable cases.
4. Use a victim and witness assistance program.
5. Establish guidelines to help set priorities among cases.
6. Maintain access to adequate equipment and facilities.
7. Assure prosecutorial competence, productivity, and independence.
8. Set goals and objectives for the prosecutor's office.
9. Communicate with others involved in the criminal justice system and participate in efforts to improve the system.

1. Provide Efficient and Effective Service Delivery

The responsibility for prosecuting misdemeanors varies from county to county in Minnesota, as described earlier. Authority for non-felony prosecution ranges from counties where county attorneys handle all non-felony offenses to those

What is this best practices review?

This report identifies some of the effective and efficient practices related to prosecution of non-felony offenses in Minnesota. It is based on a statewide study of current practices in offices of county attorneys and city prosecutors.

The purpose of this report is to catalog effective methods, demonstrate the conditions under which they may be successful, and encourage their adoption wherever appropriate throughout the state. Unlike a regular audit or evaluation, this report does not focus on deficiencies, but highlights successful practices.

We hope that Minnesota's local governments will actively use this report to examine their own practices and consider the ideas presented here that elsewhere contribute to effective and efficient prosecution.

This best practices review is part of a program created by the Minnesota Legislature in 1994 to identify best practices in local government service delivery.

where each municipality has its own prosecutor. We grouped counties by the extent to which they provide prosecution services on behalf of cities within their borders. We compared the groups by certain indicators of effectiveness or efficiency including provision of misdemeanor-related training to law enforcement, use of a diversion program for diverting certain cases from prosecution, and number of non-felony cases per attorney. With one exception, we found that county attorney offices generally performed equally well in misdemeanor prosecution in 1995 regardless of the extent of responsibility for non-felony prosecution lodged with the county attorney.

The exception was that counties where the county attorney had responsibility for prosecuting non-felony offenses on behalf of all or most cities tended to be more efficient than others in terms of number of cases per full-time equivalent (FTE) staff. This was true when looking at cases per both FTE attorneys and other FTE personnel, such as legal assistants and support staff.

Besides efficiencies in personnel, county attorneys with countywide non-felony responsibility enjoy other advantages because of their arrangement, although some may not be easily quantifiable. Countywide prosecution of non-felonies offers: consistency in charging crimes throughout the county; reduced duplication of effort because one prosecutor appears in court for several jurisdictions; ease in determining defendants' involvement in multiple offenses; and continuity with crimes that can be charged differently depending on criminal history, degree of injury, and the defendant's relationship to victims. It also eliminates questions about referring cases to another office.

At the same time, counties moving toward countywide prosecution of non-felonies would likely have to add staff to handle the influx of misdemeanor cases. Otherwise, questions may arise over the amount of attention the county attorney can provide to misdemeanors, petty misdemeanors, and ordinance violations when the office has to also prosecute the more serious crimes and felonies.

When analyzing Minnesota cities, we found that only the very largest cities had their own full-time,

Minnetonka

In the city of Minnetonka, the City Attorney's Office prosecutes non-felony offenses not only for Minnetonka but also on a contract basis for four other Hennepin County communities: Minnetonka Beach, Minnetrista, Orono, and St. Bonifacius, ranging in population from about 600 to 7,500. All cities' venues are in the same district court location, allowing efficiencies when one prosecutor represents all five cities in hearings. Revenue from the contracts allowed the Minnetonka City Attorney to (1) hire an additional attorney and divide the attorney's time between non-felony offenses for the contract cities and other Minnetonka cases and (2) pay for an electronic connection to the county's computerized information system. The contracting cities have reduced their expenditures for prosecution services by up to one and a half times.

in-house attorneys. These cities' prosecution offices performed very well when compared to other cities as measured by our indicators of effectiveness and efficiency, such as availability of victim/witness assistance programs and costs per case.

When comparing cities that relied on either county attorneys or private law firms for prosecution services in 1995, we found that in general they received comparable levels of service but there were several exceptions. Cities relying on the county attorneys' offices for prosecution were more likely than cities using private law firms to have (1) victim/witness assistance programs available, (2) misdemeanor-related training for law enforcement, (3) a higher percentage of cases disposed at arraignment, and (4) prosecutor communication with local elected officials, professional organizations, and citizens.

On the other hand, private law firms were more likely to have broad training opportunities specifically tailored to employees' needs. Among cities using private law firms, those with larger populations were more likely than smaller cities to have victim/witness programs available, provide misdemeanor-related training to peace officers, communicate with elected officials and the public, and provide broad, targeted training to employees.

A small number of cities that joined together to contract for prosecution services have found efficiencies while receiving effective service. Several groups of cities that pursued joint contracts with either a private law firm or a city with its own staff attorney have received quality prosecution services, and even improved services, at reduced or equal costs.

The shared arrangements brought consistency in prosecution, improved relations with law-enforcement officers, better working relationships with judges, efficiency in the dispositions of cases and in court appearances, and often lower net prosecution expenditures for the cities. Similar advantages are possible in areas where one prosecutor represents multiple nearby jurisdictions, something that is common among

Minnesota cities regardless of size or geographic location.

2. Maintain Good Relations with Local Law Enforcement

Prosecutors and law enforcement must work together for a criminal justice system that operates smoothly and functions well. Because successful prosecution is closely tied to effective police work, prosecutors should take steps to maintain good relations with law enforcement agencies. The steps include (1) maintaining ongoing, reliable contacts between the offices to provide information on cases as they proceed through the system and (2) offering training to peace officers to educate them on law changes and court decisions that affect their jobs and on practices related to searches, property seizures, and other potential evidentiary problems.

Carlton County

The Carlton County Attorney's Office works with the county sheriff and local police department through two officers designated as liaisons. Among other things, these liaisons supply prosecutors with information on cases, names of witnesses and victims, and professional opinions on negotiated pleas, and relay information from prosecutors regarding court appearances or postponements. Established law enforcement contacts help prosecutors save time and help officers avoid appearing in court only to find that hearings have been postponed.

According to our survey, in 1995 nearly 48 percent of county attorney's offices and 44 percent of city prosecutor's offices had established a liaison with their local law enforcement agencies for communicating information such as the status of cases. Proactive communication by prosecutors with peace officers can result in less prosecutor time in court, more effective prosecutions, and, in turn, less time spent by officers in court awaiting appearances for hearings that are frequently postponed. In addition, particularly among county attorney offices, misdemeanor-related training for

peace officers was common. About 85 percent of county attorney's offices and 47 percent of city attorney's offices offered misdemeanor-related training to peace officers in 1995.

3. Encourage Administrative Processes and Pretrial Diversion for Suitable Cases

For some cases, avoiding court proceedings may be a better and less costly alternative than prosecution. This can be done in essentially two ways: (1) through administrative processes designed to resolve violations of ordinances before they reach the criminal justice system and (2) through the criminal process by diverting cases from prosecution when the prosecutor deems them appropriate. We include a discussion of administrative processes in this review even though they occur outside of the prosecutor's office because they currently serve as alternatives to prosecution in some communities and can help focus the prosecutor's workload on other offenses better suited to traditional prosecution.

First, local governments have used administrative processes to handle certain violations in lieu of using the criminal justice system. These administrative processes are intended to provide an effective, efficient, and less formal alternative to

court proceedings. Cities with processes for resolving building code violations prior to or in lieu of prosecuting such violations are one example. These processes avoid using the criminal justice system unless the defendant appeals the decisions rendered administratively.

However, although state statutes authorize jurisdictions to adopt ordinances, they do not provide express authority for imposing administrative penalties. Jurisdictions using administrative processes have justified the processes as means for enforcing ordinances they adopt. Recognizing these issues, the Non-Felony Enforcement Advisory Committee (NEAC), set up in part to examine issues of proportionality among state statutes and local ordinances regarding criminal offenses, recommended in its 1997 report that the Legislature authorize local governments to enact ordinances providing for administrative civil penalties.

Second, after a case enters the criminal justice system, pretrial diversion programs offer an alternative for resolving certain cases outside of the courts. Diversion allows the prosecutor to decide against prosecution when more can be gained by offenders attending treatment or providing community service than by having their cases adjudicated. Through diversion, defendants are required to meet certain conditions and remain crime-free in exchange for having charges dismissed or not filed.

Morrison County

The Morrison County Attorney's Office has instituted a diversion policy for certain low-level crimes. When the county attorney decides to divert a charge, the offender meets with a probation officer to sign a contract specifying conditions the offender is obligated to meet, such as completion of community work service. If the offender fails to comply, the probation officer reports it and the county attorney prosecutes the offender. Using pretrial diversions helps reduce the backlog of criminal cases, offers a speedier response to criminal behavior, and reserves court and prosecution resources for more serious crimes.

As part of prosecutorial discretion, the decision to divert suitable cases from prosecution can help prosecutors preserve the public interest and benefit society at large. The diversion of appropriate cases can benefit the crime victim, reduce the number of less serious offenses on the court docket, encourage the collection of restitution, place the defendant in appropriate rehabilitation programs, and contribute to minimizing recidivism for particular offenders. Pretrial diversion of appropriate cases can be useful when limited resources force prosecutors to use their discretion in setting priorities among cases and spend higher proportions of resources on cases where more are warranted.

According to our survey, in 1995 about 70 percent of county attorney's offices diverted certain cases from prosecution and 40 percent had specific diversion programs designed for certain offenses. Among city prosecutor's offices, 80 percent diverted cases and 40 percent had specific diversion programs. Most of the diverted cases in 1995 resulted in later dismissals of charges or not charging the case. A majority of county attorneys reporting on diverted cases indicated that at least 95 percent of diverted cases resulted in charges dismissed or not filed. City prosecutors reported similar rates.

Prosecutors have to establish standards for the program and ensure they are uniformly enforced. For example, eligibility standards are needed to determine the types of offenders and offenses suitable for diversion. In addition, prosecutors typically have to work with probation officers or others from court services to administer the program and monitor defendants.

4. Use a Victim and Witness Assistance Program

Prosecutors should, either through their own office or by using community organizations and other resources, avail themselves of victim and witness assistance programs. Prosecution efforts to develop effective relationships with victims and witnesses encourage these individuals and others to report crimes and follow through with identifications and testimony, thus aiding prosecutors' cases.

According to our survey, victim/witness assistance programs were available in the jurisdictions of about 75 percent of county attorneys and slightly more than 55 percent of city prosecutors in 1995. Victim/witness assistance tended to be available in jurisdictions with larger populations and heavier caseloads. Services to victims and witnesses ranged from notification about case developments to advice on issues of personal safety, and many involved individuals outside the prosecutor's office.

Not all services provided through a victim/witness program are necessarily appropriate for prosecutors

Coon Rapids

The Coon Rapids City Attorney's Office developed a process of early and persistent contacts with victims. This was in response to a decision by Anoka County district judges to terminate pretrial conferences for misdemeanor domestic assaults due to insufficient communication with victims. Coon Rapids instituted a pilot program in which a support staff member in the city attorney's office communicated with victims and collected information using a victim impact worksheet that identifies what information prosecutors need to proceed. Through a combination of letters and telephone calls, the office has been able to reach more than 90 percent of victims. Consequently, prosecutors resolve most misdemeanor domestic assault cases at pretrial conferences instead of awaiting trial. Judges agreed to extend the pretrial option to other cities that adopt similar procedures.

to provide directly. For instance, prosecutors may have an obligation to pursue a case even when the victim is reluctant to cooperate; in these cases, victims may be more willing to discuss issues with an intermediary, such as a victims' advocacy organization. Advocates are usually trained to provide services such as information on emergency shelter and transportation to court, freeing up attorneys to perform their legal duties. County attorneys indicated most frequently that county funding financed their victim/witness programs. City prosecutors indicated most frequently that either private, non-profit organizations or the county provided primary financing for the victim/witness program in use.

5. Establish Guidelines to Set Priorities among Cases

Written guidelines establish parameters and provide uniformity for prosecutors' decisions about charging and prosecuting cases. Guidelines should reflect the prosecutor's discretion in determining which cases will be accepted for prosecution, which cases can acceptably be disposed of by a plea to a reduced charge, and which cases are most appropriate for disposition by pretrial diversion,

Freeborn County

The Freeborn County Attorney's Office established written guidelines for charging and plea negotiation. The guidelines for charging identify factors to consider in making the charging decision, such as the probability of conviction and the interests of the victim. Freeborn County's plea negotiation guidelines define the negotiation process and allowable dispositions. Explicitly defined prosecution policies to which all prosecutors adhere helps assure uniformity among similar cases around the county and consistency among prosecutors.

plea agreement, or trial. Using guidelines helps ensure that similar cases are treated similarly, protects against unfairness and the use of inappropriate criteria (such as religious affiliation), and provides a basis for justifying prosecutors' discretionary decisions.

Each prosecutor's office must write its own guidelines for setting priorities among cases because no single set could reasonably apply statewide. According to our survey, about 52 percent of county attorneys and 25 percent of city prosecutors had or were developing written guidelines in 1995. Smaller jurisdictions were less likely to have written guidelines than more populous ones.

6. Maintain Access to Adequate Equipment and Facilities

Prosecution effectiveness and employee productivity depend on the availability of equipment needed to perform the job. We studied two components: computerization and access to research equipment and facilities.

From a statewide perspective, the computerization of information systems associated with non-felonies is lacking. The state's criminal history data do not include misdemeanor or petty misdemeanor offenses and the state maintains a database only of misdemeanor traffic offenses. Although

information systems exist at both the state and local government levels, they are not integrated. We know of no examples where all of a jurisdiction's criminal justice participants — prosecutors, police, probation officers, the courts — share access to common information systems.

Aside from this statewide issue, many prosecutors' offices can improve their efficiency and accuracy by computerizing case management. We found that about 37 percent of county attorney offices and 26 percent of city prosecution offices had or were developing computerized case-management systems in 1995.

Effective record keeping, typically through computerization, allows the prosecutor's office to manage the current caseload as it flows through various stages in the judicial process and as it affects different personnel in the office. It is also a useful management tool for planning and administering the office's budget and staffing and measuring internal performance. According to our survey, prosecution offices that used computerized systems generally also had the capability to: automatically produce letters, disposition reports, and other documents without re-entering pertinent data; monitor information on victims and witnesses; and communicate electronically with other agencies.

Washington County

The Washington County Attorney's Office uses computerization to improve its efficiency and help manage its workload. The primary computer system for managing cases is a free-standing, closed network, designed to be independent from other county departments to prevent unauthorized access to protected data. The computer system offers case-management capabilities, a calendar function, internal office electronic mail, and task management. In addition, the office operates separate computer terminals for access to the Criminal Justice Information Service maintained by the Bureau of Criminal Apprehension and for intracounty electronic mail.

In the legal profession, information and knowledge are fundamental to effectiveness — making library facilities and research databases especially important. For efficiency, lawyers need easy access to information to prepare their cases. We found that in 1995 almost three-quarters of county and city prosecutors' offices had access to adequate law libraries and about 43 percent of each said they had access to legal research databases.

7. Assure Prosecutorial Competence, Productivity, and Independence

Because an office's greatest asset is its employees, prosecution offices need to foster a high caliber work force and help employees work most productively. In addition, because prosecutors must avoid potential conflicts that impair their independence or impede their ability to ensure just and fair criminal proceedings, they have to be prepared to identify such conflicts and call on help from outside their own employees when circumstances warrant.

Many things contribute to a productive, independent work force. For instance, prosecution offices should encourage appropriate training for attorneys and other office employees. Training should be specific to the job at hand and tailored to employees' own skill levels and identified needs. According to our survey, about 37 percent of county attorney's offices and 15 percent of city prosecutor's offices required specific courses to meet identified training needs. About 82 percent of county attorney's offices and 38 percent of city prosecutor's offices reimbursed their prosecutorial staff for continuing legal education in 1995.

Second, prosecution offices should adopt hiring practices that assure high professional skills. Regardless of whether the chief prosecutor is an elected or appointed official, prosecutors should select their assistants and staff based on merit rather than on political connections.

Third, prosecution offices need standards for dealing with conflicts of interest. Prosecutors must prepare in advance a consistent, fair process to

Roseville, Vadnais Heights, and White Bear Township

The private law firm that provides prosecution services to Roseville, Vadnais Heights, and White Bear Township in Ramsey County places a priority on attorney and administrative-assistant training. Employee training is considered valuable to enhance skills, gain new knowledge, and augment professional networking. The firm fully reimburses the cost for appropriate training for attorneys and their administrative assistant and for mileage to attend the courses. The expense of training is considered an investment to increase productivity and improve staff effectiveness. Because training helps employees stay current with evolving legal information and allows them to build networks with their counterparts around the region, it yields a better job for clients.

identify cases that present conflicts of interest and take appropriate courses of action, such as appointing special prosecutors.

Fourth, prosecution offices can use paralegal staff or legal assistants to increase productivity and efficiency by assigning certain duties to these staff and reserving for attorneys other functions requiring a law degree and legal experience. Although paralegal staff cannot substitute for attorneys-at-law, they can be used for other duties, such as records checks. We found that in 1995, paralegals and legal assistants were most often used in Minnesota counties and cities with high non-felony caseloads and commonly worked only part time on non-felony offenses.

8. Set Goals and Objectives for the Prosecutor's Office

A prosecutor's office should set goals and objectives for its work and periodically measure how well the office meets those objectives. Formally setting goals and objectives makes office priorities clear and explicit to employees, generates

information for internal monitoring of the office's success, and creates incentives for employees to work productively toward common goals. Formal goals and objectives also communicate the prosecutor's priorities clearly to law enforcement, others who interact with the office, and the general public.

Establishing performance measures is not easy, particularly for public institutions and for services, like prosecution, in which results are not always tangible or quantifiable. In addition, the use of certain measures in isolation could actually lead to unintended consequences. Nonetheless, prosecution offices that set goals for themselves, and design measurable objectives to assess how well those goals are met, are positioning themselves to improve their own performance.

The same performance measures may not work for all prosecution offices, although most prosecutors may share certain goals, such as maintaining open and clear communication with local law enforcement personnel. How this goal is put into practice will differ among jurisdictions. One might improve misdemeanor-related training for officers, others might work on reducing the number of unnecessary court appearances for peace officers, while still others might seek improved law enforcement involvement with case disposition.

While many prosecutors in Minnesota appear interested in measuring office performance, few follow a formal process of setting goals for prosecution and measuring progress towards them. We found that about 55 percent of county attorneys and 50 percent of city prosecutors had or were developing informal methods for measuring office performance in 1995. Only 3 percent of county attorneys and no city prosecutors indicated they followed a formal process of setting goals and objectives for misdemeanor prosecution.

9. Communicate with Others Involved in the Criminal Justice System and Participate in Efforts to Improve the System

Prosecutors should participate in efforts to improve communication with others in the criminal justice system as well as with members of the public. As stakeholders and visible participants in the judicial process, prosecutors should be involved in legal reforms and efforts to improve the effectiveness and fairness of the system.

Such efforts extend to interacting and improving relations with state legislators. Prosecutors' participation is needed to make the Legislature aware of the financial implications of laws it debates and adopts.

Hubbard County

The assistant Hubbard County attorney, who is responsible for non-felony prosecution in the county, volunteers to speak on criminal justice issues with students and other community organizations each year. He views these contacts as a natural extension of his role as a prosecutor. Besides fulfilling a public education need, the contacts represent a way of maintaining favorable public relations between the prosecutor's office and the community.

Of particular interest to non-felony prosecutors is the large proportion of cases in which defendants represent themselves, known as *pro se* litigation. Many *pro se* litigants lack a general familiarity with the courts or understanding of the criminal justice system. Prosecutors have a responsibility to deal fairly with *pro se* litigants and take steps that reduce complications associated with them.

Outreach efforts also extend to communicating with the public regarding criminal activity and crime prevention. Positive interaction between the prosecutor's office and the public fosters citizen support of efforts to reduce opportunities for crime.

Prosecutors' involvement in these outreach efforts can benefit public relations and contribute to overall crime prevention efforts.

CONCLUSION

Although authority for prosecuting non-felony offenses in Minnesota varies from county to county, we found examples of successful prosecution around the state in counties of all sizes and locations. Whether the county attorney's office had non-felony prosecution responsibility on behalf of all, some, or no cities in the county did not appear to affect the effectiveness of prosecution. On the other hand, we noted a difference among counties in cases per FTE personnel. Counties where county attorneys were responsible for most cities' non-felony prosecution were more likely than others to have efficient ratios of cases to attorneys and other office personnel.

Most cities in Minnesota received prosecution services through either the county attorney or a private law firm in 1995, according to our survey. Only about a dozen of the largest cities had their own full-time prosecutors on staff and they rated high on our measures of effectiveness and efficiency. Cities that joined with others for shared prosecution services enjoyed certain advantages over others.

When comparing cities using private law firms and those using county attorneys' offices, our indicators of effective and efficient prosecution showed only small differences for the most part. However, the notable exceptions were measures regarding victim/witness assistance programs, training for law enforcement officers, arraignment dispositions, and communicating with local elected officials and citizens. Cities that relied on the county attorney's office were more likely than others to have these services available. On the other hand, private law firms were more likely to concurrently offer employee training, reimburse for training expenses, and require training that was targeted to specific employee-training needs.

We recommend that local jurisdictions and prosecution offices consider nine actions characteristic of effective and efficient prosecution. Although other actions may also contribute to successful prosecution, we believe these nine are fundamental. The nine actions can be implemented in a variety of ways and several county and city prosecution offices around the state provide good examples of how these actions have worked for them.

Introduction

This report examines one component of Minnesota’s criminal justice system — the prosecution of non-felony offenses. Throughout the report, when we refer to “non-felonies,” we include offenses described in state statutes as gross misdemeanors, misdemeanors, and petty misdemeanors, as well as violations of local ordinances or rules (Chapter 1 defines these terms). We focus exclusively on prosecution offices and the role of prosecutors; although court personnel, law enforcement officers, and probation offices are also heavily involved in processing misdemeanor cases, we do not include their work in this review.

SCOPE OF THE REVIEW

This review focuses on (1) the characteristics of effective and efficient prosecution offices and (2) how the responsibility for prosecuting non-felony offenses is divided between county attorneys and city prosecutors. In examining effective and efficient prosecution, we concentrated on institutional rather than individual attorney performance. That is, we did not study the many actions taken by individual prosecutors involved in a case, such as effective techniques in selecting jurors. Instead, we focused on qualities that characterize effective prosecution offices, such as offering relevant training to law enforcement agencies.

This review identifies practices used by cities and counties to provide efficient and effective prosecution services.

Further, we did not analyze the varying approaches for dealing with criminal behavior in ways outside usual prosecutorial processes. For instance, some criminal justice observers advocate what is known as “restorative justice” programs, defined in part by requiring defendants of certain less serious crimes to meet with victims, victims’ families, and the larger community to discuss the crime’s impact, appropriate sanctions, and methods for reintegrating the offender productively into society. The focus of such efforts is on holding criminals accountable for their behavior while considering the larger social goals involved with protecting the public, helping defendants change their behavior, and attaining justice.

Although beyond the scope of our review, this and other alternatives to prosecution deserve attention and analysis. Local units of government assessing their approaches to dealing with criminal behavior could benefit from such analysis and comparisons with traditional prosecution.

As part of this review, we looked at how the responsibility for prosecuting non-felonies varies. Generally, in the seven-county metropolitan area, county attorneys have less and city prosecutors have more responsibility for non-felony offenses than in the rest of the state. Even outside the metropolitan area, though, the authority ranges from counties where county attorneys handle all non-felony offenses to counties where

each municipality has its own prosecutor. The purpose of the report is to (1) describe what works effectively and efficiently within these different arrangements for prosecuting non-felonies, (2) demonstrate the conditions under which effective methods are successful, and (3) encourage their adoption wherever appropriate throughout the state.

In this report we present goals and actions that we believe ought to guide prosecution offices. The goals provide a framework for defining best practices. Then we describe examples of counties and cities around Minnesota that currently use some of the best practices to deliver prosecution services.

To conduct this review, we collected information in a variety of ways. In addition to reviewing current literature on prosecution, we held a roundtable discussion with attorneys, court administrators, and other local government and court officials; interviewed prosecutors, coordinators of victim and witness assistance programs, and violations bureau staff; surveyed county attorneys and a sample of city prosecutors; and visited select county and city attorney offices around the state. A nine-member technical advisory panel and a consultant provided us with professional assistance and feedback during this review. (Appendix E lists these individuals. Appendices A and B contain more detailed information on the survey and other steps we took during this review.)

HOW THIS REPORT IS ORGANIZED

This report has two chapters. Chapter 1 provides background information on prosecuting non-felony offenses in Minnesota. Chapter 2 describes goals and actions of effective and efficient prosecution offices. It also provides general descriptions of best practices related to those actions and presents detailed examples of effective practices in use by select Minnesota counties and cities.

Background

CHAPTER 1

Non-felony offenses — including gross misdemeanors, misdemeanors, petty misdemeanors, and ordinance or rule violations — constitute the majority of crimes and offenses committed in Minnesota. Prosecuting non-felony offenses helps maintain public safety by holding offenders accountable to the law. In Minnesota, county attorneys and city prosecutors litigate non-felony offenses. However, the responsibility for non-felony prosecution differs among cities and among counties.

This chapter provides background information on non-felony prosecution. We focus on prosecutors' responsibilities as well as the state and local government roles in prosecuting non-felony offenses. In this chapter we:

- Define each type of non-felony offense,
- Describe briefly the various steps involved with non-felony prosecution,
- Examine the different roles played by the state and local governments in the prosecution of non-felony offenses, and

*What are
non-felony
offenses?
How are duties
for
prosecuting
these offenses
divided
between
county and
city
prosecutors?*

- Explain differences between county and city attorneys in the responsibility for non-felony prosecution.

NON-FELONY OFFENSES

Non-felony offenses constituted nearly 99 percent of all Minnesota offenses in 1995.¹ Minnesota has three types of non-felony offenses: gross misdemeanor, misdemeanor, and petty misdemeanor offenses. Minnesota state statutes define these offenses and their punishments. In addition, counties and municipalities may establish local ordinances that may be prosecutable as misdemeanors or petty misdemeanors.² We describe each of these offenses below.

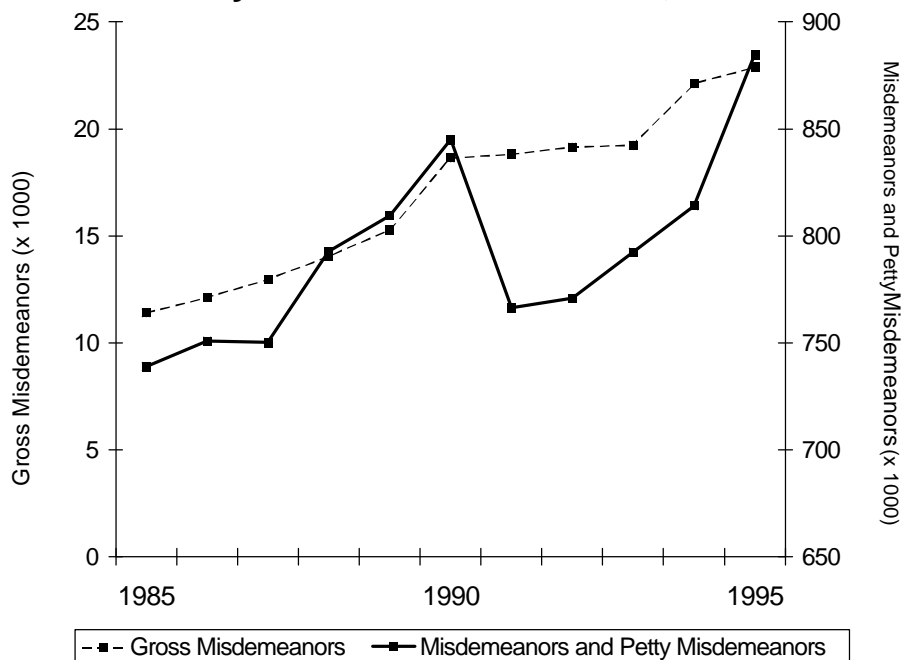
Gross Misdemeanors

A gross misdemeanor is any crime for which a sentence of not more than one year or a fine of not more than \$3,000, or both, may be imposed.³ Examples of gross misdemeanors include repeat driving while intoxicated (DWI) and domestic assault when committed within five years of a previous domestic assault conviction involving the same victim or another member of the defendant's family or household. As shown in Figure 1.1, the Minnesota Office of the State Court Administrator reported nearly 23,000

¹ Minnesota Office of the State Court Administrator, Minnesota Trial Court Statistics (TCSTAT).

² Minn. Stat. §§365.125, 375.51, 410.20, and 412.221.

³ Minn. Stat. §609.02, subd. 4.

Figure 1.1: Non-Felony Offenses in Minnesota, 1985-95

Note: These numbers do not include parking and juvenile traffic violations, which would nearly double the number of misdemeanor and petty misdemeanor offenses represented each year.

Source: Minnesota Office of the State Court Administrator.

gross misdemeanor offenses filed in trial courts across the state in 1995. This represents more than a 22 percent increase from 1990 to 1995, and over a 100 percent increase from 1985 to 1995. The increase is in part due to legislative changes in the codification of offenses that upgraded some violations to gross misdemeanors. Gross misdemeanors totaled 2.5 percent of all non-felony charges in 1995, up from 2.2 percent in 1990 and 1.5 percent in 1985.⁴

Misdemeanors

A misdemeanor is a crime for which a sentence of not more than 90 days or a fine of not more than \$700, or both, may be imposed.⁵ Disorderly conduct or first-time driving under the influence of alcohol are examples of misdemeanor offenses. Individuals charged with misdemeanors enjoy all of

the constitutional rights that protect persons charged with more serious crimes, such as being presumed innocent and having their guilt proven beyond a reasonable doubt before they can be convicted of the offense.

District courts statewide reported nearly 885,000 misdemeanor and petty misdemeanor offenses in 1995, excluding juvenile traffic and parking violations.⁶ This number is up over 4 percent from 1990 and almost 15 percent from 1985. However, most misdemeanor and petty misdemeanor offenses are disposed of prior to going to trial. Of the misdemeanor and petty misdemeanor offenses disposed in 1995, just 1 percent were disposed of by court or jury trials.⁷ Fifty-seven percent of the cases were disposed of without any court activity, and 42 percent were disposed of after a court

⁴ Minnesota Office of the State Court Administrator, TCSTAT.

⁵ *Minn. Stat.* §609.02, subd. 3.

⁶ Juvenile traffic and parking violations accounted for another nearly 750,000 offenses in 1995.

⁷ Minnesota Office of the State Court Administrator, TCSTAT.

appearance of some type but not a trial.

Misdemeanors and petty misdemeanors constitute the bulk of all non-felony offenses — over 97 percent in every year between 1985 and 1995.

Petty Misdemeanors

A petty misdemeanor is a minor offense, which is prohibited by statute or ordinance but not considered a crime, punishable by a maximum fine of \$200. Petty misdemeanor offenders are not subject to imprisonment. The procedure for petty misdemeanor cases is the same as for misdemeanor cases, except that there is no right to a jury trial or appointed counsel.⁸ Examples of petty misdemeanors include driving in excess of the posted speed limit or possessing a small amount of marijuana. Parking offenses, which constitute the majority of petty misdemeanor offenses, represented almost 45 percent of all misdemeanor and petty misdemeanor offenses filed in 1995.⁹

Local Ordinance and Rule Violations

In addition to offenses defined in state statutes, local units of government have authority to define offenses by adopting local ordinances. Violations of some ordinances are criminal offenses and others are not, depending on how the ordinance is worded. However, a criminal violation of ordinances, charter provisions, rules or regulations of any subdivision of government is a chargeable offense by the prosecuting attorney.¹⁰

PROCESS FOR RESOLVING NON-FELONY OFFENSES

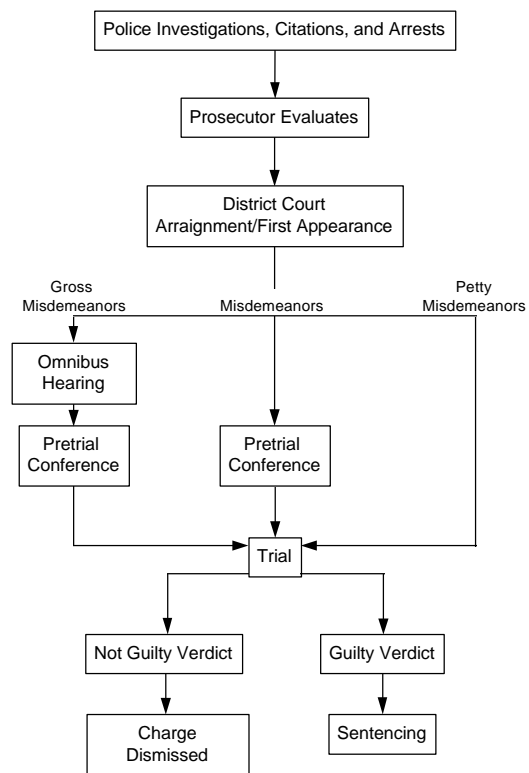
Non-felony offenses may be prosecuted in the formal court system, but many are also resolved through payment schedules, violations bureaus, and administrative processes outside the criminal justice system.

Prosecution

The non-felony prosecution process typically contains four principal stages: (1) charges and complaints, (2) arraignments or first appearances, (3) pretrial conferences (except for petty misdemeanors), and (4) trials. These stages differ slightly for gross misdemeanor, misdemeanor, and petty misdemeanor offenses. (See Figure 1.2.)

Many non-felony cases result from peace officer arrests. Arrested defendants may be held in custody or receive citations, written documents (such as tickets) listing the charge and directions to

Figure 1.2: Non-Felony Prosecution Process



Note: Defendants may plead guilty at any stage from arraignment to trial. Once a defendant pleads guilty, sentencing begins. Cases may be dismissed at any stage.

Source: Legislative Auditor's Office.

⁸ However, if certain misdemeanors are certified as petty misdemeanors, pursuant to *Minn. R. Crim. P.* 23.04 or *Minn. Stat.* § 609.131, the defendant may still be eligible for court-appointed counsel.

⁹ TCSTAT data show 1,634,254 total minor criminal offenses (misdemeanors and petty misdemeanors) in 1995, of which 731,844 were parking and 17,683 were juvenile traffic offenses.

¹⁰ See *Minn. Stat.* §§487.18 and 487.25, subd. 10.

appear before a designated court at a specified time and place. In other instances when cases come to prosecutors' offices, the prosecutor evaluates potential charges and prepares formal complaints when prosecution is warranted. A judge then reviews the complaint and determines whether probable cause exists to believe a crime was committed by the named defendant.

Defendants typically appear in court following the charge or complaint. At a defendant's first appearance, the district court, also known as trial court, informs the defendant of the charges and his or her constitutional rights. For misdemeanors and petty misdemeanors, this first appearance may coincide with the arraignment hearing during which the defendant enters a plea of guilty or not guilty. For gross misdemeanors, the district court typically holds an omnibus hearing to determine whether there is probable cause to support the charges.

With a plea of guilty, sentencing procedures begin. With a plea of not guilty, pretrial procedures begin. Many cases are resolved at these stages before trial either through plea negotiations or dismissals. For the small share of cases that go to trial, a trial by jury is held for misdemeanors and gross misdemeanors and a trial by judge is held for petty misdemeanors.¹¹ Should the judge or jury find the defendant not guilty, the charge is dismissed. A guilty finding is followed by sentencing.

Uniform Fine Schedule and Violations Bureaus

Not all non-felony offenses are resolved this way. The Conference of Chief Judges maintains a list of "payable" offenses that allows offenders to merely pay a fine without going to court for specific petty misdemeanors and misdemeanors.¹² This uniform fine schedule applies statewide. In addition, Hennepin and Ramsey counties each has a violations bureau staffed with hearing officers to whom certain minor offense violators may bring their cases. Although not adjudicative, violations

bureaus annually handle tens of thousands of violations — mostly petty misdemeanor moving violations — through a process that gives defendants an opportunity to be heard while reserving the courts for higher-level offenses. Other counties may also have informal administrative processes to manage parking violations.

Administrative Processes

Some local governments have developed administrative processes to resolve violations of ordinances before they reach the criminal justice system. With the use of independent hearing officers, the administrative process is intended as a less formal alternative to official court proceedings for certain ordinances, such as building code violations. The process can serve as an alternative to adjudication, reserving traditional prosecution for cases where it is best suited.

The jurisdictions using these processes typically write administrative citations for alleged violations of local ordinances. Persons receiving administrative citations may discuss their circumstances with a hearing officer hired to listen to and decide these cases. Routes for appeal are also provided. Although several local governments are using administrative processes, some questions about them remain unanswered because state statutes do not provide express authority for imposing administrative penalties, as they do for adopting ordinances.

The use of violations bureaus and administrative processes to resolve less serious cases reserves courts for severe offenses.

¹¹ Defendants in misdemeanor and gross misdemeanor cases may waive the right to a trial by jury and choose to be tried by the court.

¹² The Conference of Chief Judges is the administrative council for Minnesota's trial courts; its members include the chief judge and assistant chief judge of each judicial district.

STATE AND LOCAL ROLES IN NON-FELONY PROSECUTION

In Minnesota, both the state and local governments have roles in the design and operation of the system for prosecuting non-felony offenses. For example, the Legislature establishes the criminal and traffic codes and other statutes that define non-felony offenses, the Supreme Court promulgates the rules of criminal procedure, and state-paid judges and professional administrators oversee the district courts through which non-felony offenses are prosecuted. On the other hand, local governments are responsible for items such as prosecution of non-felony offenses, law enforcement, and court services like probation.¹³

The State Role in Non-Felony Prosecution

Non-felony offenses enter the court system at the district court level, the first level of Minnesota's three-tier court system.¹⁴ Most criminal and civil cases are tried at this first level. The second tier, the Minnesota Court of Appeals, reviews decisions of the district courts. The highest court in the state, the Minnesota Supreme Court, hears appeals from the Court of Appeals, the Workers' Compensation Court of Appeals, and the Tax Court, as well as appeals from first-degree murder convictions and legislative election contests.¹⁵

As shown in Figure 1.3, Minnesota has 10 judicial districts.¹⁶ Judges are elected by district, but have chambers in county court houses throughout the state.¹⁷ With a few rare exceptions, non-felony cases are tried in the county where the offense allegedly occurred.¹⁸

Financing the Courts

The state and local governments share the costs of the criminal justice system. District court judges, elected to six-year terms in each district, are paid for by the state. The state also pays for the court reporter, law clerks assisting the judge, public defender services, jury fees and expenses, state law library, state court administrator, judicial district administrators, and (except for Hennepin and Ramsey counties) district administrator staff. District courts report case information, such as the number of cases filed and the number of cases disposed, to the state primarily through a computerized Total Court Information System (TCIS) financed by the state.¹⁹

Just a decade ago, the structure of Minnesota's courts and court funding responsibilities looked considerably different. Minnesota had a county court system financed largely at the local level through property tax dollars. In 1987, the courts began unifying into a statewide district court system, although counties still shouldered most of the financial burden.²⁰ In 1989 and subsequent

¹³ However, the Department of Corrections provides probation services in some counties.

¹⁴ Some offenses, such as petty misdemeanor moving violations, may instead go to a violations bureau or be resolved administratively, as noted earlier.

¹⁵ Minnesota Office of the State Court Administrator, *I'll See You in Court: A Consumer Guide to the Minnesota Court System* (St. Paul, January 1995), 3.

¹⁶ *Minn. Stat.* §2.722, subd. 2.

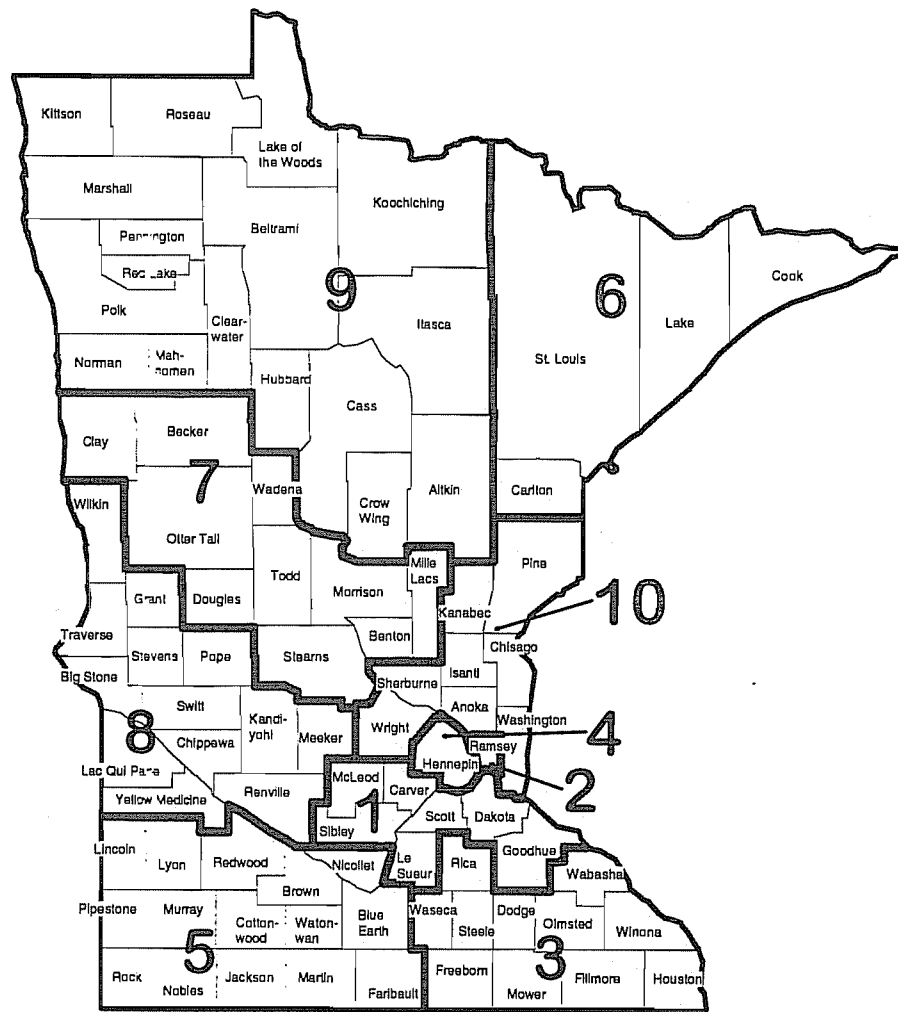
¹⁷ According to the Office of the State Court Administrator, the 10 judicial districts currently have 254 judges: 28 judges in the first district, 26 in the second, 22 in the third, 58 in the fourth, 17 in the fifth, 15 in the sixth, 22 in the seventh, 11 in the eighth, 20 in the ninth, and 35 in the tenth.

¹⁸ See *Minn. R. of Cr. P.*, 24.01.

¹⁹ TCIS data do not include Hennepin and Scott counties, which have their own automated systems.

²⁰ See *Minn. Stat.* §487.191. Counties funded 79 percent of the cost of Minnesota's trial courts in 1988. See *Trial Court and Public Defense Funding: The Transition from County to State Funding* (St. Paul, February 1991), 3.

Figure 1.3: Minnesota's Judicial Districts



years, the Legislature adopted an increased state role in trial court financing, forming the system currently in use.²¹ While the state has assumed financial responsibility for a portion of judicial branch costs, it has not assumed responsibility for financing all trial court costs as outlined in state laws.²²

Information Systems

Multiple information systems related to criminal justice exist at both the state and local levels of government, but they are neither comprehensive nor integrated. Criminal justice information systems administered by several state agencies house everything from numbers of arrests to terms

²¹ The Legislature adopted recommendations made by two groups that examined trial court financing: (1) the Minnesota Supreme Court Task Force on Financing of the Trial Courts and (2) the Governor's Advisory Council on State and Local Relations. See *Laws of Minn.* (1989), Ch. 335, Art. 1, Sec. 5. and *Laws* (1989), Ch. 335, Art. 3, Secs. 14 - 20, 22, 26, 37, 38, 42, and 43.

²² Since 1990, the eighth judicial district has served as a pilot demonstration project for which the state assumed the costs of court operations. See *Laws of Minn.* (1989), Ch. 335, Art. 3, Sec. 54 and *Laws* (1993), Ch. 192, Sec. 107. Although the state was to assume operational costs in additional judicial districts, it has not done so.

of probation agreements.²³ The Department of Public Safety maintains a statewide database on misdemeanor traffic offenses, for instance.

However, information on certain non-felony offenses is difficult to find because many information systems include case information on only gross misdemeanors and felonies. Prosecutors can get information just on cases in their own county or judicial district. They have difficulty determining whether a defendant has committed misdemeanor offenses outside their district because such criminal history information is not available

***Information
systems are
neither
comprehensive
nor integrated.***

statewide. Although each trial court tracks misdemeanor offenses, the data are not available outside the district.

Further, databases lack integration between state and local levels of

government. There is little interface among the different databases and few links to connect prosecutors, courts, law enforcement, and court services. This precludes electronic communication across agencies for matters such as scheduling hearings and sharing relevant case information. The lack of interface also lowers efficiency because of the duplication of effort involved with re-entering data as a case moves from law enforcement to prosecution to adjudication to court services.

State and local efforts are underway to correct some of these deficiencies, but they are independent of each other. At the local level, a few jurisdictions are developing linkages among prosecutors, the

courts, and law enforcement to automate the scheduling of court activities among these parties and provide a centralized database on non-felony offenses instead of maintaining separate databases in each agency. At the state level, the Criminal and Juvenile Justice Information Policy Group, set up by the Legislature to analyze criminal justice information needs, has recommended enhancing criminal history information with systems that track statewide all orders for protection and targeted misdemeanors, a recommendation now under consideration by the 1997 Legislature.²⁴

Although both local and state information systems continue to evolve, there is little coordination among their efforts. No one is integrating the development of the various information systems. However, the Criminal and Juvenile Justice Information Policy Group's recommendations to the 1997 Legislature include, among other things, funding requests to develop infrastructure for a coordinated statewide criminal justice information system, ensure the sharing of criminal justice information, and provide statewide access to existing and future databases.

Non-Felony Enforcement Advisory Committee

The Legislature established the Non-felony Enforcement Advisory Committee (NEAC) in 1993 to "address proportionality, prosecution, and enforcement of non-felony offenses."²⁵ The NEAC final report, released in January 1997, recommends a reorganization of the criminal and vehicle codes and other criminal offense statutes and a reclassification of specific offenses and their penalties.

²³ For example, the Computerized Criminal History Records (CCH), administered by the Department of Public Safety, contains information on defendants' criminal histories. The Supreme Court's Total Court Information System (TCIS) contains information on trial court activity, to which county attorneys and court services can purchase online access. TCIS supplies the State Judicial Information System (SJIS) with aggregate data. The Department of Corrections has automated information exchanges with the Department of Public Safety and maintains a database with information on defendants' probation. Various state agencies also maintain databases on arrests, warrants, criminal fingerprints, sentencing, jails, and correctional facilities.

²⁴ The recommendation also includes statewide juvenile criminal history data. See *Minn. Senate* (1997) S.F. No. 982 and *Minn. House* (1997) H.F. No. 1165.

²⁵ Non-felony Enforcement Advisory Committee, *Non-felony Enforcement Advisory Committee Final Report*, (St. Paul, January 1997), 1.

The reorganization and reclassification have the potential to significantly affect prosecution services. For instance, NEAC recommends reclassifying as first, second, or third degree misdemeanors certain theft and property-related offenses currently classified as gross misdemeanors or felonies. This means that instead of the county attorney prosecuting the offense as a gross misdemeanor (in counties where the county attorney typically handles gross misdemeanors) or felony, the city prosecutor will be required to prosecute it as a misdemeanor. This shift in offenses from felonies and gross misdemeanors to misdemeanors means that cities would likely see an increase in their prosecution caseload. However, NEAC also recommends reclassifying certain offenses as infractions, thus reducing the number of offenses for which municipal prosecutors would be responsible.

The report also recommends various changes to increase system effectiveness. Among the changes are recommendations to improve the statewide source of certain misdemeanor criminal history information, expand authorities granted to hearing officers in violations bureaus and encourage consideration of violations bureaus in districts currently without them, and increase fine collection efforts.

One item NEAC considered was the appropriate arrangement of prosecution responsibility, also part of this review. After discussing various arrangements with county and city attorneys, NEAC concluded that local governments have legitimate concerns about funding and staffing issues associated with state-mandated changes to local prosecution authority and that current voluntary arrangements work sufficiently. Based on its efforts devoted to this issue, NEAC recommends that “political subdivisions continue to explore joint ventures to create efficiencies where possible.”²⁶

The Local Role in Non-Felony Prosecution

In Minnesota, prosecution of non-felony offenses is lodged at the local government level. Counties are responsible for financing the county attorney, who is elected to a four-year term, and all staff and operations of the county attorney’s office. Counties also pay for the county court administrator, the bailiff, security personnel, sheriff deputies who appear in court, witness fees and expenses, and any administrative or overhead costs associated with the courtroom. Similarly, cities are responsible for paying the city prosecutor (who may be appointed by the city council, the mayor subject to council approval, or city manager subject to council approval) and the police officers who appear in court to testify.²⁷

DIFFERENCES IN COUNTY AND CITY PROSECUTOR RESPONSIBILITIES

Most misdemeanors, petty misdemeanors, and local ordinance or rule violations are prosecuted by the attorney of the city where the offense allegedly occurred.

Cities with a population of 600 or less may, by resolution of the city council and with the approval of the county board, transfer the duty to the county attorney. By statute, cities of the first, second, and third class also prosecute the gross misdemeanor

violations of driving while intoxicated, aggravated traffic violations, theft, issuance of dishonored checks, property damage, check forgery, and

City prosecutors in the metropolitan area have more responsibility for gross misdemeanors than those outstate.

²⁶ *Ibid.*, 59.

²⁷ We did not study relationships between the method of selecting city prosecutors and prosecutor performance.

financial transaction card fraud, unless the city uses the county attorney for prosecuting non-felonies.²⁸ All remaining gross misdemeanors, misdemeanors, and petty misdemeanors not prosecuted by the city attorney are prosecuted by the county attorney of the county where the offense allegedly occurred.²⁹

Special provisions exist for the seven-county metropolitan area counties, giving city prosecutors responsibility for prosecuting additional gross misdemeanors.³⁰ However, only county attorneys prosecute the gross misdemeanor violations of failure to report physical or sexual child abuse or neglect, fifth degree criminal sexual conduct, and certain environmental law infractions.³¹

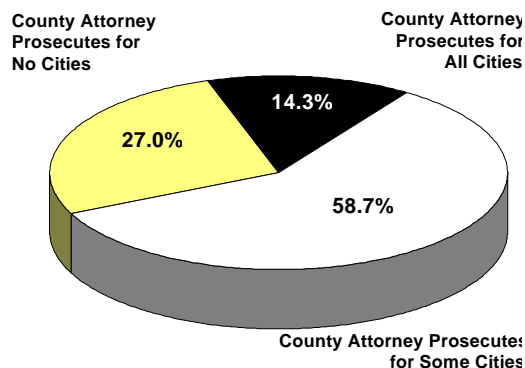
DIFFERENCES IN ARRANGEMENTS FOR PROSECUTING NON-FELONY OFFENSES

County and city responsibilities for providing prosecution vary across Minnesota.³² In some counties, the county attorney is responsible for all non-felony prosecution regardless of where in the county an offense occurs; that is, the county prosecutes non-felony offenses on behalf of all municipalities. Most of these counties lie outside the seven-county metropolitan area; Carver County is unique in the metropolitan area in that none of its cities has its own prosecutor. In other counties, the county attorney is responsible for prosecution services in some but not all municipalities. In yet

others, the county attorney does not prosecute non-felony offenses on behalf of any municipalities. As shown in Figure 1.4, we found that:

- **In 1995, 9 counties (14 percent of county attorneys responding to our survey) in Minnesota provided non-felony prosecution services on behalf of all their municipalities. Another 36 counties (59 percent) prosecuted non-felony offenses for some but not all municipalities, and 17 (27 percent) did not prosecute non-felony offenses for any municipalities.**³³

Figure 1.4: Non-Felony Prosecution in Minnesota Counties



Source: Legislative Auditor's Office Survey of County and City Attorneys, 1996.

²⁸ See *Minn. Stat.* §169.121, subd. 3, para. (d); §169.129; and §487.25, subd. 10. *Minn. Stat.* §410.01 defines four classes of cities: cities of the first class have more than 100,000 inhabitants, cities of the second class have between 20,000 and 100,000, cities of the third class have between 10,000 and 20,000, and cities of the fourth class have not more than 10,000 inhabitants.

²⁹ *Minn. Stat.* §487.25, subd. 10.

³⁰ City prosecutors for communities in Anoka, Carver, Dakota, Hennepin, Scott, and Washington counties have authority to prosecute gross misdemeanors with the exception of those specifically designated to the county attorney. *Minn. Stat.* §388.051, subd. 2 specifies that county attorneys in these counties shall prosecute: tax evasion, tax fraud, making false tax statements, unreasonable restraint or malicious punishment of a child, child neglect, or possessing pictures involving sexual conduct and minors. Similarly, only the Ramsey County attorney can prosecute the gross misdemeanor violations in that county of unreasonable restraint or malicious punishment of a child and child neglect.

³¹ *Minn. Stat.* §388.057, subd. 2(c).

³² The information we provide on current non-felony prosecution arrangements comes from surveys of county attorneys in Minnesota's 87 counties and a random sample of 533 cities. Data from these surveys pertain to calendar year 1995. Appendix A contains more information about the methodology and results of the surveys.

³³ The remaining 25 counties either did not respond to our survey or provided insufficient information for analysis.

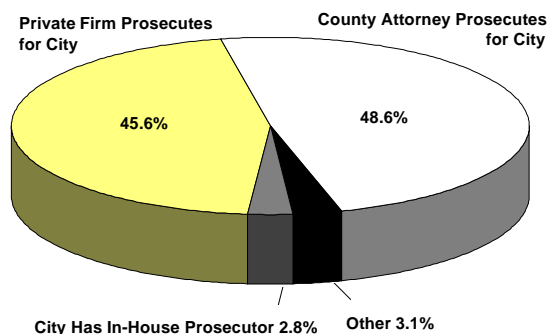
According to our survey of cities, about 49 percent of Minnesota cities relied on the county attorney's office for prosecution services in 1995. (See Figure 1.5.) This arrangement was most prevalent among smaller cities, under 3,000 population. Another 46 percent of cities received prosecution services provided by private law firms. A few cities had formed joint powers agreements to jointly purchase prosecution services from private firms. We learned of two such joint powers agreements — one in Scott County and another in Hennepin County.

About a dozen Minnesota cities, most with populations of 49,000 or more, had their own full-time attorneys on staff. One of these cities, Minnetonka, provided prosecution services to four nearby communities. Some cities have prosecution responsibility for other entities such as in Minneapolis, where the city attorney prosecutes non-felony offenses on behalf of the University of Minnesota and the Metropolitan Airports Commission.

SUMMARY

Non-felony offenses include gross misdemeanors, misdemeanors, petty misdemeanors, and local ordinance or rule violations. Both county attorneys and city prosecutors have non-felony prosecution responsibilities, but these differ between the metropolitan and non-metropolitan counties, as well as within the seven-county metropolitan area. In Minnesota, local governments have varying arrangements for non-felony prosecution services. Some counties provide non-felony prosecution services for all their municipalities; in others, some or all cities have their own city prosecutor.

Figure 1.5: Non-Felony Prosecution in Minnesota Cities



Note: "Other" includes cities with joint powers agreements and other arrangements for prosecution services shared among several municipalities.

Source: Legislative Auditor's Office Survey of County and City Attorneys, 1996.

Effective Non-Felony Prosecution

CHAPTER 2

This chapter describes goals, actions, and best practices related to effective non-felony prosecution. We base the goals on existing statutes, rules, and standards pertaining to prosecutors. The actions are general steps that prosecutors' offices can take to help meet the goals.

Together the goals and actions present a framework to help identify best practices in the prosecution of non-felony offenses in Minnesota. Following a description of this framework, we present specific examples of effective practices in use by counties and cities around Minnesota.

In this chapter we ask:

- **What are the principal established goals that apply to non-felony prosecution in Minnesota?**
- **What actions should prosecution offices take to reach the goals?**
- **What practices now in use reflect these actions?**

Prosecution offices should fulfill statutory and ethical duties, encourage efficient proceedings, communicate clearly with law enforcement, and balance societal with individual rights.

GOALS

The legal profession has established professional guidelines and standards for its members. State statutes and rules also govern attorneys' actions. These standards, rules, and laws lay out general duties for attorneys – including specific responsibilities for prosecutors – and define professional conduct. From these established standards and laws, we identified four primary goals for effective and efficient prosecution offices.

Goals are broad statements describing desired outcomes for an agency. These four goals are based on measures with which prosecutors are already familiar, emanating from state statutes, rules of criminal procedure and professional conduct, and existing national standards for criminal justice. We believe these goals apply to all prosecution offices regardless of size or location. The prosecutor's office should:

1. **Fulfill its statutory obligations and adhere to relevant ethical standards.**¹ This includes seeing that laws are faithfully executed by prosecuting non-felony offenses as provided by law for the jurisdiction; notifying victims regarding their rights and opportunities

¹ This goal is based in part on *Minn. Stat.* §§388.051, subd. 1(c); 487.25, subd. 10; and 611A.015-611A.06. It refers to the requirements and guidelines of *Minnesota Rules of Criminal Procedure* and *Minnesota Rules of Professional Conduct*, in particular rule 3.8 on special responsibilities of the prosecutor and rules 1.7-1.10 related to conflicts of interest. It also relies on standard 1.5 from: National District Attorneys Association, *National Prosecution Standards*, 2nd edition (Alexandria, VA: NDAA, 1991), 9-10.

for input; complying with relevant codes of professional conduct and responsibility; and fulfilling other duties as prescribed by statute or rule.

2. **Encourage just and fair criminal proceedings and resolutions of infractions that are unhampered by unjustifiable expense and delay.**² This goal addresses the realities of adequate staff and facilities for prompt dispositions of criminal charges. It also recognizes that prosecutors serve the interests of justice when they set priorities that apportion greater resources to cases of more importance while developing strategies for resolving less important cases with dispatch.
3. **Communicate clearly with the sheriff and/or police departments and other local law enforcement personnel, and encourage effective communication from law enforcement, in a shared effort to combat crime and promote law-abiding activity.**³ This goal acknowledges the interdependent nature of the work performed by prosecutors and peace officers. It recognizes that effective communication requires mutual effort and cooperation between prosecutors and law enforcement.
4. **See that justice is served by maintaining a judicious balance between protecting the rights of society and those of individuals involved in cases.**⁴ This goal embodies the principle that the prosecutor has ultimate responsibility to all of society, unlike other legal advocates who are accountable to individual clients.

ACTIONS TO REACH THE GOALS

We identified nine actions that we believe will help prosecution offices reach these goals of fulfilling their statutory obligations, seeking justice without unnecessary expense and delay, communicating clearly with peace officers, and serving the interests of society as a whole. In contrast to the goals, these actions represent specific objectives that are typically quantifiable and can be measured.

These are not the only actions that affect the performance of prosecution offices. Other factors may also play a role and these nine are not intended to be exclusive. Clearly, for example, the performance of individual attorneys is extremely important. But our focus was on the institution of non-felony prosecution, not the performance of individuals.

The nine actions are:

1. **Provide efficient and effective service delivery.**
2. **Maintain good relations with local law enforcement.**
3. **Encourage administrative processes and pretrial diversion for suitable cases.**
4. **Use a victim and witness assistance program.**
5. **Establish guidelines to help set priorities among cases.**
6. **Maintain access to adequate equipment and facilities.**
7. **Assure prosecutorial competence, productivity, and independence.**
8. **Set goals and objectives for the prosecutor's office.**
9. **Communicate with others involved in the criminal justice system and participate in efforts to improve the system.**

2 This goal is based primarily on standard 3-2.9 regarding prompt disposition from: American Bar Association Criminal Justice Standards Committee, *ABA Standards for Criminal Justice Prosecution Function and Defense Function*, 3rd edition (Washington D.C.: ABA, 1993), 40-43.

3 This goal is based in part on standard 3-2.7 from: ABA, *Standards*, 33-35. It also encompasses standards 19.1, 19.2, 20.1, 20.2, 21.1, and 22.1 from: NDAA, *Standards*, 79-83.

4 This goal is based on standard 1.3 from: NDAA, *Standards*, 9 and on rule 3.8 from: *Minn. Rules of Professional Conduct*.

We describe below each of these nine actions, followed by examples of the actions in practice.

BEST PRACTICES RELATED TO THE ACTIONS AND GOALS

Prosecution offices can implement these actions in a variety of ways. Following a brief description of the actions, we provide some information on how each action relates to offices of county attorneys and city prosecutors in Minnesota. This information comes from a survey we conducted of all Minnesota counties and a representative sample of cities. (Appendix A contains details about the survey methodology and responses.)

To illustrate how the nine actions can be reflected in actual practice, we provide concrete examples of how some counties and cities have implemented these actions. The examples come from prosecution offices in six cities and five counties which are listed in Figure 2.1.

These 11 jurisdictions were among many that employ effective practices. We chose these 11 because they were some of the local jurisdictions that ranked high in key areas of effectiveness and efficiency, such as providing misdemeanor-related training to law enforcement, using a diversion program for diverting certain cases from prosecution, and number of non-felony cases per attorney. (Appendix C describes the full set of performance measures we considered.) We also selected these communities based on their size and location because we wanted to examine a cross section of different jurisdictions in Minnesota.

Figure 2.1: Jurisdictions Selected for Interviews, 1996-97

Carlton County	Hubbard County
Coon Rapids	Minnetonka
Fairmont	Morrison County
Freeborn County	Roseville
Gibbon	Washington County
Grand Rapids	

Many other prosecution offices also qualified but time and resources limited our more in-depth review to just a handful of local governments. The practices described in this chapter are by no means limited to only the jurisdictions we selected to visit.

In our examples we describe why the prosecution offices adopted the practice, the advantages they gained, and problems they encountered.

The practices may not be universally applicable. We try to identify what features of a practice might impede other jurisdictions from adopting the same practice. Along with descriptions of the

practices, we include the names and telephone numbers of contacts who can provide more information to readers with additional questions.

The practices help save time, reduce labor, cut costs, or improve service.

Although we did not independently test the practices described, we present only those practices that others have found useful. The examples are of practices that certain local governments have tried and found to help them save time, reduce labor, cut costs, or otherwise improve their ability to get the job done. In each case the practice may be appropriate for some, but not all, jurisdictions.

Next we present the nine actions and related practices.

1. Provide Efficient and Effective Service Delivery

From our analysis we found that some indicators of effectiveness and efficiency tended to vary by a jurisdiction's arrangement for delivering the service of prosecution. Other indicators of effectiveness and efficiency applied statewide through all arrangements for jurisdictions' prosecutorial services. We discuss next some indicators that varied by type of prosecution arrangement.

As described in Chapter 1, the arrangements for delivering the service of non-felony prosecution vary around the state. We compared non-felony prosecution services in (1) counties, after grouping them according to the breadth of the county attorney's responsibility for prosecuting non-felonies on behalf of cities, and (2) cities, after dividing them between those relying on the county attorney and those relying on private law firms. The results of our comparisons follow.

Comparing Counties by Prosecution Arrangement

When comparing county attorney offices, we found that:

- **Regardless of the extent of the county attorney's responsibility for prosecuting misdemeanors, county attorney offices generally appeared equally effective in non-felony prosecution in 1995.**

To analyze prosecution arrangements, we clustered counties into three groups (see Figure 2.2.):

- (1) Counties where all or most of the responsibility for prosecuting non-felonies lay with the county attorney and at least 80 percent of the cities did not have their own city prosecutor (15 counties, all but one outside the metropolitan area).⁵
- (2) Counties where the county attorney's office had non-felony prosecution responsibility for some but not all cities — at least 1 and up to 80 percent of all cities in the county (30 counties).
- (3) Counties where the county attorney's office prosecuted no non-felony offenses on behalf of

any city and every city had its own city prosecutor (17 counties).⁶

In our comparisons, we looked at a variety of indicators of effectiveness, including the percent of non-felony cases in 1995 that were disposed that year, availability of programs such as victim and witness assistance, extent of involvement with law enforcement, and adequacy of equipment and facilities. Among the three groups of counties, we saw some slight variation in performance depending upon the measure under study, but none of the three groups consistently rated higher than the others on our yardsticks of effectiveness. For instance, a slightly larger share of the county attorneys in counties with countywide-prosecution authority for non-felonies had higher than median conviction rates for cases disposed of prior to trial.⁷ When considering cases that went to trial, however, slightly fewer of these same counties were above the median in conviction rates.

We also compared counties by total expenditures per case. To do so, we added the expenditures from the county attorney's office to expenditures for all city prosecution offices in the county. This represented total non-felony prosecution expenditures by county. We found little difference in median expenditures per case when comparing counties with countywide prosecution and those with other arrangements.

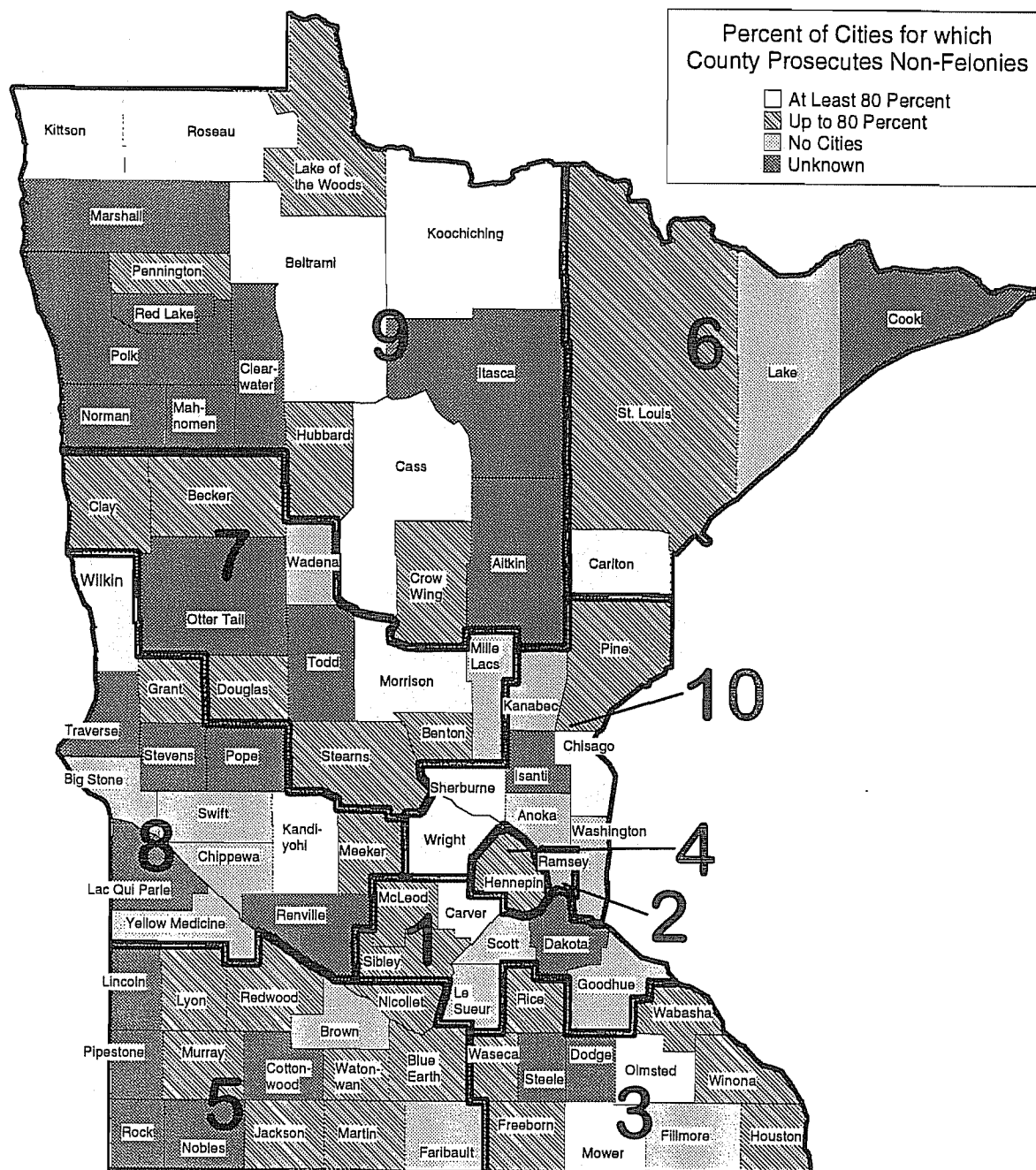
By contrast, we noted some differences among the three groups of counties in terms of personnel when comparing cases per one full-time equivalent (FTE) attorney and cases per one FTE other prosecution employees. To determine whether personnel levels in counties with countywide prosecution differed from those in other counties, we compared total prosecutors in each county using a count of full-time equivalent attorneys from both the county

⁵ We included in this group 9 counties in which none of the municipalities had their own prosecutor and 6 where 80 percent or more of the cities relied on the county attorney for misdemeanor prosecution.

⁶ The remaining 25 counties not in our analysis either did not respond to our survey or did not provide adequate information to be clustered into 1 of the 3 groups. Most of the county attorney offices in the third group still had prosecution authority for certain non-felony offenses, such as many gross misdemeanors in non-metropolitan counties.

⁷ Conviction rates by themselves can be misleading measures because they assume erroneously that all cases are of equal importance and that resources are equally available to pursue all cases. We looked at conviction rates along with numerous other measures of performance.

Figure 2.2: Counties by Prosecution Arrangement

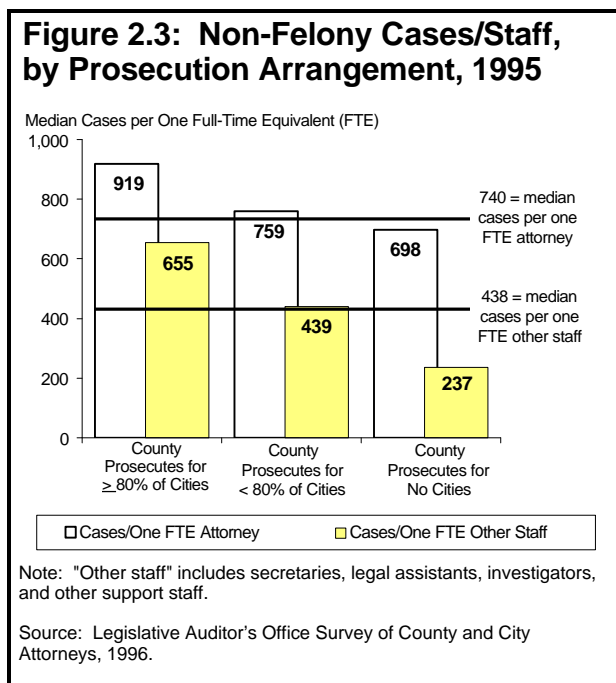


Source: Legislative Auditor's Office Survey of County and City Attorneys, 1996.

attorney's office and all city prosecutor's offices in the county.⁸ We found that:

- **Counties where the county attorney has responsibility for prosecuting non-felony offenses on behalf of all or most cities tended to handle more cases per attorney and per other staff than other counties.**

These counties with countywide prosecution responsibility in the county attorney's office tended to have more efficient levels of attorneys and other staff than other counties. Figure 2.3 shows that the median ratio of cases to one FTE attorney was higher in counties in which authority for all or nearly all non-felony prosecution is lodged in the county attorney's office than in other counties. The same was true in regards to the ratio of cases to other FTE personnel, which includes secretaries, legal assistants, investigators, interns, and other support staff.



Even though we saw a relationship between the arrangement for prosecution responsibility and personnel efficiency, we cannot conclude that the

type of arrangement was the sole cause of differences in cases per FTE personnel. Other factors can contribute to the size of an office's work force, such as the extent to which gross misdemeanors, which typically require more time and resources than less severe offenses, are part of the office's caseload.

Besides efficiencies in personnel, county attorneys with countywide prosecution responsibility enjoy other advantages because of their arrangement. Some of these advantages may not be easily quantifiable yet still are significant.

Countywide prosecution of non-felonies offers:

- consistency in charging crimes throughout the county,
- reduction in the duplication of effort because one prosecutor appears in court for several jurisdictions,
- ease in determining defendants' involvement in multiple offenses, and
- continuity with crimes that can be charged differently depending on criminal history, degree of injury, and the defendant's relationship to victims.

It also eliminates questions about referring cases to another office. This is helpful in that one office can evaluate all the relevant factors of a case and prosecute the offense at the appropriate level rather than referring the case from the county to the city prosecutor or vice versa.

At the same time, counties moving toward countywide prosecution would likely have to add attorneys and other staff to handle the influx of non-felony cases. Without additional staff, questions would likely arise over the amount of attention the county attorney could provide to all misdemeanors, petty misdemeanors, and ordinance

⁸ To compare total FTE prosecutors per county, we added the number of prosecutors from the county attorney's office to the number from city prosecution offices within that county. To that sum we added an estimate of the number of FTE attorneys for other cities in the county for which we did not have data. We based the estimates on actual data reported to us from city attorneys' offices in each of four regions of the state. We followed this same process to estimate numbers of other personnel, such as legal assistants, and caseloads.

violations when the office also has to prosecute the more serious crimes and felonies. Especially in larger cities where the number of non-felony offenses is higher, the likelihood is greater that some offenses would not get prosecuted. Indeed, this was part of the reason that the Legislature gave city prosecutors greater authority for prosecuting gross misdemeanors in the metropolitan area than elsewhere in the state. Counties have to weigh the costs of additional staff against the benefits of unified prosecution to decide whether the net effects would be advantageous to the public at large.

Carver County is Minnesota's only county in the metropolitan area to prosecute non-felony offenses on behalf of all its cities; it has done so since the early 1970s. Initially, the Chaska City Attorney assumed prosecution responsibility for other cities

Countywide prosecution can offer staffing efficiencies.

in the county that were located far from the county seat and had small caseloads that did not justify the expense of full days spent in arraignment hearings. Based on time efficiencies gained from this

consolidated effort, the Chaska attorney and other city attorneys discussed the potential for countywide prosecution with the county attorney and municipal judge at the time. They decided to pursue countywide prosecution and pay for it by allocating two-thirds of fine revenues generated from offenses to the county and one-third to the city in which the offense occurred.

The arrangement is still in place today. Carver County has a high non-felony caseload — near the 85th percentile of non-felony cases for counties in the state. Although the fine-revenue split does not cover the full cost of prosecution on behalf of the county's 12 cities, the county attorney sees advantages such as consistency in charging, uniformity in prosecuting regardless of where in the county the offense occurs, and effective communication among law enforcement, the courts, and the single prosecution office. This

communication is enhanced because the county sheriff's office provides law enforcement services on a contract basis to 11 of the 12 cities.

Comparing Cities by Prosecution Arrangement

As mentioned in Chapter 1, about 49 percent of Minnesota cities relied on the county attorney's office for non-felony prosecution in 1995, according to our survey. About 46 percent of cities relied on private law firms. The rest either had their own attorneys as city employees or joint powers agreements for prosecution services. Only the largest communities had their own attorneys on staff. We found that:

- **Only the largest cities — those in at least the 88th percentiles of population and number of offenses — had their own prosecutors on staff in 1995. These city attorney's offices consistently performed well in terms of effectiveness and efficiency when compared with other cities.**

For most of our measures of performance, the cities with their own prosecutors on staff performed as well as or better than other cities. This was true for measures of effectiveness, such as availability of and satisfaction with written guidelines for charging decisions, and for measures of efficiency, such as costs per case or personnel per case.

Of the cities that contracted for their prosecution services, a small number had successfully joined with others in a cooperative arrangement for their prosecution service. We learned of four cities in western Hennepin County that contracted with the Minnetonka City Attorney's Office, which has its own staff attorneys. According to some of the participating cities:

- **Cities contracting with the in-house prosecution office have been able to reduce their costs for prosecution while receiving effective service.**

Efficiencies are gained in part because the five cities' venues are in a single district court location, enabling one attorney to represent all five cities in court. Details on this arrangement are provided later in this chapter.

Similar efficiencies may be gained when one prosecutor prosecutes for multiple cities in close proximity. Of cities that use private law firms for prosecution, we found that 64 percent had prosecutors who represented at least one other city in 1995. This arrangement was common for cities of all sizes in both the metropolitan and non-metropolitan regions.

We also learned that as of 1995, six cities in Scott County and three others in Hennepin County had each formed joint powers agreements to jointly contract for prosecution services with private law firms.⁹ The joint powers agreements offered participating cities advantages over their previous arrangements. For instance, the Joint Prosecution Association in Scott County provided full-time prosecutors working on behalf of the member cities. According to members of the Association,

- **The joint powers agreement has brought consistency in prosecution, improved relations with law-enforcement officers, better working relationships with judges, efficiency in the dispositions of cases and in court appearances, and often lower overall prosecution expenditures for the cities.**

Outside of cities with in-house prosecutors and shared prosecution arrangements, the rest of Minnesota cities were divided fairly evenly between those that used private law firms and those that relied on the county attorney for non-felony prosecution.¹⁰ Around Minnesota, smaller cities tended to rely more heavily than larger cities on the county attorney for non-felony prosecution. In nearly 70 percent of smaller cities — those with

populations of 1,000 or less — the county attorney was responsible for all non-felony prosecution in 1995.

When comparing cities that relied on private firms with those relying on the county attorney we found that:

- **In general, cities that contracted for prosecution services in 1995 received comparable levels of service, regardless of whether they used a private firm or the county attorney.**

For instance, we saw little difference when comparing city prosecution arrangements by number of personnel. We found that in 1995:

- **The number of cases per FTE attorney for cities using private law firms was similar to that of cities relying on county attorney offices.**

Equal percentages of cities using private law firms and cities using county attorneys (48 percent of each) had cases per FTE attorney greater than the median of 838.

Because we do not have expenditure

data for cities that contract with county

attorneys for prosecution, we cannot compare costs between those cities and others that relied on private law firms.

On the other hand, we noted five exceptions to the generalization about comparable levels of service

**Shared
prosecution
arrangements
can improve
services and
reduce
expenses.**

⁹ The Scott County cities were: Belle Plaine, Elko, Jordan, New Market, Prior Lake, and Savage, ranging in population from 225 to 14,000. The Hennepin County cities were: Excelsior, Shorewood, and Tonka Bay, ranging from 1,500 to 6,600 in population.

¹⁰ Some cities have actual written contracts with counties to have the county attorney prosecute non-felony offenses on their behalf; others do not. Among cities that use private law firms for prosecution, some have contracts and others retain attorneys only on an as-needed basis. For the purposes of our study, we analyzed all cities relying on county attorneys as one group and all those using private law firms as a second group.

between cities using private firms and those using county attorneys. First, according to our survey:

- **About 79 percent of cities that used the county attorney's office in 1995 received prosecution services that included the availability of a victim/witness assistance program, compared to 57 percent of cities that used private law firms.**

Of cities using private firms, the smaller population cities were less likely than larger ones to have a victim/witness program available.

At the same time, most cities typically do not need a full-time victim/witness program given the size and nature of their caseload. For instance, the need is less when there are few crimes against persons as opposed to traffic offenses. According to our survey, a median 81 percent of city prosecutors' non-felony cases in 1995 did not involve victims or crimes against a person.

For this analysis, availability of a victim/witness program included jurisdictions that employed their own clerks or advocates working with victims as well as those using external, independent organizations that provided victim services. The breadth of services provided by the victim/witness programs varied and is described later in this chapter.

Most cities did not finance their own victim/witness program exclusively but instead depended on programs financed by private organizations, the county attorney's office, or a combination of organizations. Only about 10 percent of city prosecutors we surveyed reported that the city was primarily responsible for financing the victim/witness program and all but one of those had large caseloads — higher than the median caseload for city prosecutors in the state.

Second, we found differences regarding prosecutor-provided training for law enforcement.

- **Cities using county attorneys' offices, whether occupied by full-time or part-time county attorneys, were far**

more likely than cities using private law firms to have their prosecutors indicate that they offered misdemeanor-related training to local law enforcement in 1995.

According to our survey, about 84 percent of cities receiving prosecution services through counties had county attorney offices that provided misdemeanor-related training to law enforcement in 1995, compared to 43 percent of cities relying on private firms. This does not necessarily mean that officers in the other 57 percent of cities using private firms received no misdemeanor-related training. For instance, officers might have received such training from the county attorney's office even though they worked for cities that did not use the county attorney for non-felony prosecution. The majority of those private firms that did not offer law enforcement training prosecuted for smaller cities — with populations of less than 1,000. These small communities with their own police departments typically have small, one-person police forces.

In addition, cities relying on the county attorney's office for non-felony prosecution were more likely than others using private firms to have prosecutors with formal or informal ways of allowing peace officer input to case dispositions. Such input helps ensure the exchange of complete information and reinforces cooperation between officers and prosecutors.

Third, we noted differences in the percentage of cases disposed of at arraignment hearings. Resolving misdemeanor and petty misdemeanor cases at early stages in the judicial process, such as at the arraignment, can reduce expense and delay. We found that:

- **Cities relying on county attorneys for prosecution were more likely than cities using private firms to have a significant**

Resolving cases at arraignment can reduce expense and delay.

share of their misdemeanors and petty misdemeanors resolved at arraignment.

Cities using county attorneys had a median 35 percent of misdemeanors and petty misdemeanors resolved at arraignments in 1995 compared to a median 20 percent of such cases in cities using private law firms.

Statewide, the median percentage of misdemeanor and petty misdemeanor cases resolved at arraignment was 29 percent for county attorneys and 26 percent for city prosecutors. However, the range of misdemeanor and petty misdemeanor cases resolved at arraignments in 1995 varied greatly from 0 up to more than 80 percent. Among city prosecutors, those resolving larger percentages of their non-felony offenses at arraignments tended to have higher caseloads than other city prosecutors.¹¹ We saw no significant differences in percent of cases disposed at arraignment when comparing cities by geographic region, size, or by ratio of gross misdemeanors to other, less serious non-felonies.

Placing a high priority on arraignments and ensuring that all parties — prosecutors and defense attorneys — appear at the arraignment hearing, can lead to earlier dispositions and fewer overall court appearances per disposition. We learned that some city prosecutors have informal agreements with their colleagues whereby one attorney is present for arraignments on behalf of several jurisdictions and the responsibility for appearing circulates among the group.

Judges and the court process have roles in arraignments too; for instance, in some judicial districts, judges have strongly encouraged attorneys to appear at arraignment hearings. For cases to be resolved at arraignment, both prosecution and defense attorneys have to be available. Some prosecutors' charging practices may preclude them from resolving cases at arraignment. On the other hand, in some cases, defense attorneys may have little incentive to appear at the arraignment because

by postponing the hearing they may be able to delay jail time for defendants.

Fourth, we noted a difference in the likelihood of prosecutors presenting information to local elected officials, citizens, and civic groups. According to our survey,

- **About 66 percent of cities relying on county attorneys' offices had prosecutors that provided information and advice to local elected officials, citizens, and civic groups compared to about 26 percent of cities using private law firms.**

Among cities using private firms, those with larger populations were more likely than less populated cities to have prosecutors that presented information to local officials and citizens. Although less central than other activities to the prosecutor's traditional role, communication and outreach to persons outside the criminal justice system is important for public understanding of the prosecution office as well as support for reducing crime opportunities and improving responses to crimes.

The fifth difference was related to employee training. By contrast with the other differences, in this case, private law firms were more likely than county attorney offices to concurrently offer employee training, reimburse for training expenses, and require training that was targeted to specific training needs. We found that in 1995:

- **About 83 percent of cities using private law firms and 34 percent of cities relying on county attorneys for prosecution had law offices that were above the median in offering in-house and outside training opportunities, providing training reimbursements, and requiring courses or seminars that were specific to identified training needs.**

This does not mean that employee training was unavailable for attorneys serving the remaining 66

¹¹ We did not see a similar statistical relationship between caseload size and percent disposed at arraignment reported by county attorneys.

percent of cities that used the county attorney's office for non-felony prosecution. Rather, it means that these offices were less likely to provide all of the following: a variety of in-house and external training, reimbursements for training, and courses targeted to identified training needs. Of the cities using private firms, those with larger populations were more likely than smaller cities to have all these features of employee training. Additional information on employee training can be found later in this chapter.

Examples of Effective and Efficient Arrangements

The following examples illustrate arrangements for effective or efficient service delivery in some Minnesota counties and cities.

Fairmont

Fairmont, a city with 11,300 residents located in Martin County on the Minnesota-Iowa border, hired a full-time, in-house city attorney in 1989. The city had previously contracted with a private law firm for its legal services. When the lead attorney representing Fairmont resigned from the position, the city looked at two options: continuing to contract with a private law firm or hiring an attorney on staff as a city employee.

After considering its options and opening a search process, Fairmont hired an in-house city attorney. The attorney came from the private law firm with whom Fairmont had formerly contracted. She had assisted the city's lead attorney on Fairmont legal issues approximately 60 percent of her time. Because the attorney was well acquainted with Fairmont, the city council hoped hiring her would increase accessibility to the attorney and result in a more aggressive effort in supporting a preventive, instead of reactive, approach to legal matters.

In 1994, the city council decided to re-evaluate this arrangement. The council sent out a request for proposals to provide legal services. One firm responded, with a proposal for an annual contract of \$68,000 plus additional expenses. Fairmont was paying \$86,000 for the salaries, benefits, and

training of a full-time attorney and full-time legal assistant. The council decided that the \$18,000 difference was worth the added benefits of the existing arrangement: expertise in the issues most important to the city, personal contact with police officers involved in prosecution efforts, and time to communicate on an individual basis with Fairmont's citizens, city employees, and public officials.

The in-house attorney's prior knowledge of Fairmont legal issues made the choice more appealing to the city council. However, this rather unique situation is unlikely to be available in many jurisdictions. Also, because smaller cities may not need the services of a full-time attorney, hiring a permanent position might not be cost effective for them.

For more information contact:

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Hubbard County

In Hubbard County, a sparsely populated county of 15,500 residents located in north central Minnesota, the assistant county attorney participates in regularly scheduled, weekly arraignments and pretrial conferences. This arrangement allows the prosecutor to efficiently dispose of a significant share of cases at early stages in the judicial process. In Hubbard County the county attorney is a part-time position; an assistant county attorney, also part time, is responsible for prosecuting non-felony offenses in the county including on behalf of two of the county's four cities.

About two years ago, the prosecutor, public defender, and court administrator collaborated to increase the efficiency of arraignments and pretrial conferences. They agreed to schedule pretrial conferences and arraignments every Monday morning. As a result, the prosecutor and public defender meet at the courthouse each Monday at 9:00 a.m. to review the pretrial conferences

scheduled from preceding weeks. Arraignments begin at approximately 10:30 a.m.

To make the preset times for hearings work, the deputy court administrator has compiled by each Thursday morning a list of arraignments and

Prosecutor and defense attorney appearances at regularly scheduled arraignments resolve cases earlier.

pretrial conferences for the upcoming week. The prosecutor's assistant picks up the list of arraignments and pretrial conferences at the courthouse and initial complaint reports from the sheriff's office. She sends the appropriate reports and all discovery material to the public defender assigned to Hubbard

County, giving the public defender time to discuss matters with his clients. This routine enables the prosecutor and public defender to be ready for arraignments the following Monday.

Having a set time for arraignments has saved time for the attorneys involved. Because the attorneys generally have all the information they need for the arraignments each week, they can avoid requests for continuances which delay dispositions of cases. Trips to the courthouse have been consolidated. Police officers benefit because they have a regular, predetermined time for court appearances.

The arrangement has succeeded because of cooperation and a good working relationship between the prosecutor and public defender. They have had to reach an understanding on what dispositions the other believes acceptable for given crimes. The arrangement requires both the prosecutor and public defender to work in advance of the arraignments, with the expected payoff of less time needed later in the judicial process. Practically speaking, they have to remain committed to Monday mornings at the courthouse which reduces scheduling flexibility for that time period; for instance, when the prosecutor cannot

appear, he must pay another attorney to serve in his place.

Another key to the arrangement's success is getting timely reports from law enforcement officers. If officers do not complete initial complaint reports quickly, the attorneys will not have the information they need to present their cases each week.

Jurisdictions served by numerous public defenders may not be able to set a similar arrangement because of the logistics involved with gathering all public defenders before a sufficient number of judges at one time and location. The arrangement in Hubbard County accommodates 20 to 30 arraignments each Monday. Areas with much higher caseloads may find it difficult to resolve their arraignment calendar in the same manner.

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Minnetonka

Minnetonka's city attorney prosecutes non-felony offenses not only for that city but also on a contract basis for four nearby communities. Minnetonka is a city of 50,600 residents in western Hennepin County and has its own in-house attorney staff. The four cities with whom it has contracts for prosecution services are: Minnetonka Beach (population of 600), Minnetrista (3,700), Orono (7,500), and St. Bonifacius (1,200). The contract arrangement provides prosecution services at lower costs for the contracting communities than they paid to private firms and allowed Minnetonka to supplement its legal services.

In preparing their budgets for 1992, several cities in Hennepin County explored ways to reduce their costs for prosecution services. Discussions among several city administrators led the Minnetonka City Attorney to determine how many additional cases her office could handle if it were to provide prosecution services to other cities and how much she would have to charge. The calculations

revealed that the volume of cases represented by Orono, Minnetrista, and St. Bonifacius combined with Minnetonka's own increasing caseload would justify adding another attorney to the city attorney's office. The contracts also meant working with two

***Cities can
reduce costs
for prosecution
when they join
in cooperative
arrangements
for service.***

additional police departments; Minnetrista and St. Bonifacius had an existing joint powers agreement for police services.

The contract arrangement began in 1992 and has been mutually beneficial. The Minnetonka City Attorney's office was

able to divide the time of the additional attorney between non-felony offenses for the contract cities and other Minnetonka cases. Initially, fees paid by the three contracting cities covered the compensation costs for an additional attorney while Minnetonka covered expenses for space, secretaries, computers, and other overhead items.

About a year later, the city of Minnetonka Beach contacted Minnetonka about the possibility of contracting for prosecution. Minnetonka Beach officials had a joint arrangement with Orono for police services; they thought that using the same provider for prosecution services would be a natural fit. Minnetonka agreed to the additional contract because adding Minnetonka Beach would provide the city attorney's office with sufficient revenues to pay for an electronic connection to the Hennepin County computer information system.

Currently, the four cities (under two police departments) have contracts, renegotiated every two years, that split the costs of the additional lawyer based in part on the number of cases in each city. The biennial contract includes a cost adjustment factor for the second year to account for inflation. The contracting cities have reduced their expenditures for prosecution services significantly — by up to one and a half times what they paid to private law firms prior to the Minnetonka contract.

Amounts paid by the contract cities cover the direct expenses of the lawyer (including salary, continuing legal education certification, and license fees) plus 15 percent overhead to pay taxes and other indirect expenses.

The city attorney's office does not distinguish among the contracting cities in providing prosecution services. That is, the prosecuting philosophy and type of service provided for the four contracting cities is consistent with the service Minnetonka itself receives. The office divides its work on a functional basis so that attorneys work on cases in their areas of expertise as opposed to cases that arise by city. Upon request, the office participates in training with police departments from any of the cities.

From the perspective of the Minnetonka City Attorney's Office, it is important to come to a common agreement with the affected police departments on enforcement policies and priorities. For Minnetonka, this required communicating with the police departments and working out differences in priorities over time. In addition, it is important for cities to agree on whether civil or criminal prosecution is appropriate for certain matters, such as questions about data practices or zoning violations. Although it is not always clear cut, drawing as explicit a line as possible between civil and criminal matters can help avoid a situation where a city expects criminal prosecution for a matter that is not covered by the contract. All four contracting cities still retain private attorneys to provide legal services with civil cases.

With the four contracts, the Minnetonka City Attorney's Office is at a threshold. Minnetonka could not contract with additional cities unless it both hired another attorney and secretary and moved into expanded quarters. Consequently, even though Minnetonka has been approached by other cities interested in pursuing a contract, it has declined.

The efficiencies achieved in the contract arrangement are possible in part because of the cities' proximity to a common court facility. All the cities' venues are in the same district court

location in Hennepin County's Ridgedale Division located in Minnetonka. Efficiencies are gained by having one attorney represent all five cities in hearings at the same time rather than having each city represented by a different prosecutor.

Although the city attorney's office in this instance is comprised of attorneys who are city employees, jointly provided prosecution services need not be restricted only to this arrangement. Cities could pursue joint proposals for prosecution with private firms to achieve similar efficiencies.

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Morrison County

In Morrison County, with about 30,300 residents located in central Minnesota, the county attorney is responsible for prosecuting all non-felony offenses committed anywhere within the county. The county attorney has written contracts with each community to provide prosecution services.

The countywide prosecution arrangement has been in place in Morrison County for a little more than a decade. When Little Falls, the county seat and most populous city in the county, decided to contract with the county attorney for prosecution in

1984, the countywide prosecution arrangement became possible. Other cities, all with far smaller caseloads, followed suit within a few years, following meetings between the county attorney and city officials.

Cities were reluctant to pay the county for prosecution services. The county attorney's office met with representatives of the 15 cities to discuss compensation and offered payment options from which they could choose. Cities could opt to pay for prosecution services on an hourly basis, a monthly retainer basis, or by exchanging fine revenues for the service.¹² In choosing to forfeit their share of criminal fine revenues, cities would not make direct payments to the county; rather, cities' fine revenues that in the past accrued to them would instead go to the county.

A unified arrangement for prosecuting non-felonies throughout the

county produced several advantages. First, because one office is responsible for charging all offenses, crimes are treated the same countywide. The county attorney pursues similar crimes equally aggressively, regardless of where in the county they occur. For instance, a crime committed in Pierz is charged at the same level as the same crime committed in Little Falls.

Second, the county and its cities as a whole gain efficiencies when one prosecutor represents multiple jurisdictions in court. The county prosecutor in court for one jurisdiction can represent other communities at the same time. For example, when appearing for arraignments, one prosecutor can appear at the hearings for several jurisdictions instead of having multiple prosecutors

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¹² Exclusive of the counties of Chisago, Hennepin, and Ramsey, criminal fine revenue paid by offenders for gross misdemeanors and misdemeanors is generally distributed as follows: one-third accrues to the political jurisdiction that employs the officer making the arrest, one-third to the jurisdiction that prosecutes the offense, and the remainder to the county. All revenues from parking violations for which complaints or warrants have not been issued remain in the community where the offense occurred. *Minn. Stat.* §487.33, subd. 5.

appear, each representing a single community. This reduces duplication of effort and can save time overall.

Third, because the county is responsible for all juvenile and adult prosecutions, it has the advantage of maintaining consistency in charging decisions for crimes that involve both juvenile and adult offenders. In these situations contacts with victims are also consistent and simplified.

Fourth, one prosecution office prevents disputes over which office will prosecute certain crimes that can be charged at different levels depending on factors such as the defendant's criminal history, degree of injury, amount of loss, or relationship to victims. For instance, Morrison County's arrangement avoids questions about which office will handle a theft or damage to property case when the amount stolen or damaged is close to the misdemeanor limit or to the gross misdemeanor limit. As another example, cases involving domestic assault may be prosecuted as felonies, gross misdemeanors, or misdemeanors depending in part on whether the defendant has prior convictions for assault. Under a countywide prosecution arrangement, one office prosecutes all offenses.

Fifth, having one office in charge of all non-felonies offers benefits to law enforcement agencies. Law enforcement enjoys the efficiencies of dealing with a single prosecution office using consistent methods of operation. Communications between law enforcement and prosecutors are enhanced because officers receive a single message instead of multiple, sometimes conflicting messages from several prosecution offices.

To accommodate prosecution of offenses in Little Falls, the county attorney's office added an attorney position to its existing staff. After that, it was not difficult for the office to assume responsibility for the other communities in the county because of their small size and caseload. Although five cities had their own police departments they did not generate a sufficiently large increase in caseload to overwhelm county attorney staff, in part because they were one-person law enforcement

departments. In counties containing several large cities, assuming responsibility for prosecuting all non-felonies is unlikely to occur without adding the requisite staff. Further, the cost of additional attorneys and support staff may not be completely offset by cities' cumulative payments for prosecution services, as was true in Morrison County.

Some of the success of the unified prosecution arrangement in Morrison County is due to cooperation with and acceptance by local law enforcement. As is true elsewhere, the working relationship between prosecution and law enforcement is a close one; the success of one relies heavily on the other. If the police department in Little Falls, for instance, disagreed with prosecution provided via the county attorney's office, it is unlikely that the city would have pursued that contract. To make countywide prosecution succeed, law enforcement must be convinced of its benefits.

In addition, caseload size may make a difference. In counties where one or more communities have caseloads that justify a full-time prosecutor some of the advantages of efficient court appearances may be lost.

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2. Maintain Good Relations with Local Law Enforcement

Prosecutors and law enforcement must work together to have a criminal justice system that operates smoothly and functions well. Because successful prosecution is closely tied to effective police work, prosecutors should take steps to maintain good relations with law enforcement agencies.

One of these steps relates to ongoing, reliable contacts between the offices. Such contacts serve

as a conduit for informing law enforcement of cases as they proceed, such as providing information on

Prosecution and law enforcement contacts can prevent unnecessary court appearances by officers.

court dates and scheduled appearances. Proactive communication by prosecutors with peace officers generally results in less prosecutor time in court, more effective prosecutions, and, in turn, less time spent by officers in court awaiting appearances for hearings that are

frequently postponed. A designated individual or an automated mechanism, such as a shared database between prosecution and law enforcement offices, can provide this contact. Maintaining these contacts between prosecutors and law enforcement also fosters a cooperative working relationship between the agencies.

At the same time, prosecutors have to be careful to avoid extensive involvement in police work, such as the police investigative function. Extensive involvement goes beyond the prosecutorial function and may make the prosecutor a witness to a case, presenting a potential conflict of interest and threatening the loss of immunity from civil damages.

According to our survey, in 1995:

- **Nearly 48 percent of county attorney's offices and 44 percent of city prosecutor's offices had established a liaison with their local law enforcement agencies for communicating information such as the status of cases and court appearances.**

Such contacts can promote effective working relationships between prosecutors and law enforcement, assist the prosecution in completing its job, and help avoid officers' unnecessary court appearances. Furthermore, many prosecution

offices provided ways for peace officers to have input in the disposition of cases. Involving officers in these matters can help ensure that all information necessary for successful prosecution is available. It also reinforces the importance of mutual cooperation between prosecutors and officers. We found that:

- **About 88 percent of county attorney's offices and 66 percent of city prosecutor's offices had either formal or informal ways of allowing officer input into case dispositions in 1995.**

Another practice related to maintaining good relations with law enforcement is offering training to peace officers on issues associated with non-felony investigations and prosecution. Prosecutors rely heavily on the abilities of local law enforcement. For example, without successful investigations by officers, prosecutors may be forced to decline bringing a complaint.

Prosecutors should assist in educating law enforcement personnel to help alleviate problems that can occur during searches, property seizures, arrests, and interrogations, as well as other evidentiary problems. Training developed by prosecutors can also promote awareness of recent developments in relevant laws and court cases. We found that, particularly among county attorney offices, misdemeanor-related training for peace officers is common. According to our survey:

- **About 85 percent of county attorney's offices offered misdemeanor-related training to peace officers in 1995 while 47 percent of city attorney's offices offered such training. Misdemeanor-related training can prevent evidentiary problems and also keep officers apprised of law changes or recent court decisions that relate to their work.**

Examples of Maintaining Good Relations with Law Enforcement

The following examples describe some ways that county attorneys and city prosecutors have implemented practices for good relations with local law enforcement.

Carlton County

The county attorney's office in Carlton County, located in northeastern Minnesota with 30,000 residents, has used law-enforcement liaisons to assist non-felony prosecution for 14 years. The liaisons are active law officers, employed by the sheriff or police department, designated to coordinate case information and testimony between law enforcement and county attorney personnel. The county sheriff's department and Cloquet police department each provides two liaisons for this purpose. If a case does not have a formal liaison, the arresting officer serves as the contact for the prosecutor.

The county attorney's office uses the law enforcement liaisons to request specific information or receive additional information on a case, get

Liaisons relay information on investigations, victims, and court appearances.

names of witnesses and victims, and communicate information on court appearances or postponed appearances. Prosecutors also consult liaisons for their professional opinions of possible negotiated pleas.

The attorney's office and liaisons have worked together to establish a police report form that also serves as a complaint form, saving time and resources otherwise spent duplicating information.

While the county attorney's office does not pay any direct financial costs for the law-enforcement liaisons, prosecutors spend more time up front with officers discussing case matters than they otherwise would. However, liaisons allow prosecutors to use

their time more efficiently because they spend less time overall with police on a particular case. Additionally, the liaisons reduce administrative hassle by serving as a central source for interactions with prosecutors, such as to answer questions, sign complaints, schedule officer appearances in court, and further interview witnesses.

Although jurisdiction size would not necessarily hinder the use of liaisons, larger jurisdictions might realize greater benefits because individual prosecutors may not be as able to easily contact a particular officer. The county attorney stresses the importance of keeping the arresting officer involved in a case; while a liaison can simplify some of the procedural matters, the arresting officer is still an integral part of the prosecution process. The success of an effective liaison program requires cooperation and a joint desire of law enforcement personnel and prosecutors.

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Freeborn County

The Freeborn County Attorney's Office makes a point of keeping peace officers informed on cases. The office uses a contact person to proactively communicate directly with officers who arrest or ticket the offender and provide testimony, and field calls from officers wanting details on specific cases.

One prosecutor has the specific responsibility of informing officers about the status of cases. This contact person advises officers of what is needed from them for a particular case, informs officers when to appear in court, and calls them when a scheduled appearance is canceled. Generally, the officer who arrests an offender receives a call from the contact in the county attorney's office. The contact prosecutor also sends a letter to inform officers when a case is scheduled for trial. Additionally, after an officer testifies in court, the contact person either calls or sends a thank-you note to express the office's appreciation.

Consistently initiating communication with law enforcement requires an investment of time. Nonetheless, the county attorney believes the benefits of the investment are numerous: increased confidence by law enforcement in the quality of prosecutors' work, heightened trust between prosecutors and officers, and better cooperation between agencies in resolving cases. This close communication is possible in part because the office has a manageable number of non-felony cases, allowing it to devote the time necessary for ongoing, proactive communication.

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Gibbon

The city attorney for Gibbon, a city of 700 residents located in central Minnesota, makes systematic input from the chief of police a part of his approach to non-felony prosecution. The prosecutor, who is with a private law firm, relies on the chief for information on non-felony cases, insight with plea negotiations, and observations regarding charging and sentencing. This team approach begins with the initial charge and carries through the term of the case.

Gibbon's city attorney and the chief of police, who is the only full-time officer in the department, have fostered their relationship over 15 years. As soon as the prosecutor is notified of a case, he contacts the chief of police who serves as the liaison between both offices. Over the course of the case, the prosecutor and chief coordinate information needed pertaining to the case and notify each other of related investigative discoveries. The prosecutor and chief typically communicate three to five times through the completion of a case.

According to the city attorney, the actual time spent communicating with the police chief up front is minimal compared to time savings gained. Because the prosecutor communicates with the chief throughout the case, he usually does not have to

backtrack to retrieve missing pieces of information, documentation, or testimony. This results in a savings of time for the prosecutor and expense for the city. Additionally, effective communication leads to resolving cases earlier in the process.

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Roseville, Vadnais Heights, White Bear Township

Roseville, Vadnais Heights, and White Bear Township, all located in Ramsey County, contract for prosecution services with a private law firm. The city prosecutor who represents these communities makes regular contacts with their peace officers, produces written materials for them, and provides training for these officers and others in the north suburban police departments. Roseville has its own police department while the Ramsey County sheriff provides law enforcement in Vadnais Heights and White Bear Township.

In September of each year, the prosecutor puts on a general training session. Begun specifically for peace officers in the communities she represents, the training has since expanded to include other law enforcement officers in the area. Each officer participating in the training receives a manual produced by the prosecutor that covers relevant legal topics. Officers are not charged for the manual, but the city prosecutor has received subsidies from a peace officer training organization for distributing the manual.

The training and accompanying manual typically cover information on new laws, the traffic code (particularly statutes regarding driving while intoxicated or DWI), and court decisions that are relevant to officers' work. In addition, the prosecutor discusses do's and don'ts for situations that officers commonly face such as searches and seizures, taping suspects, and collecting evidence at an accident scene.

The prosecutor makes a point of meeting with the police chief and sergeant to discuss training needs.

Officers receive information on new laws, the traffic code, and court decisions relevant to their work.

These meetings allow her to tailor training to issues of greatest interest and importance to the officers.

Intermittently during the year, the prosecutor provides brief training sessions on timely topics. Timing the training to make it convenient for officers is important.

The prosecutor usually provides the training at the department near the beginning or end of a shift so that most officers can attend. Officers receive some of their required annual training credits for attending.

The law firm also produces and distributes a one-page guide to all traffic and criminal violations that officers can carry and use as a reference tool. On this sheet the prosecutor includes each traffic violation, petty misdemeanor, misdemeanor, and gross misdemeanor, along with its corresponding statute number, and pertinent city ordinances and their numbers. The violations are grouped together so that officers can easily find all regulations pertaining to a given topic, such as motorcycles, school buses, or failure to yield. Each year the law firm updates this traffic and criminal violations guide with new or changed laws.

Throughout the year, the prosecutor has periodic communication with police officers. For instance, she may write memos to officers informing them about the outcome of a court case that could affect the way they do their jobs. If a change in law or procedure is especially vital, the prosecutor attends the officers' roll call to inform them about the change. Attending roll calls ensures that officers receive the message and gives the prosecutor an opportunity to meet the officers and answer their concerns. The prosecutor also may write to

individual officers when she feels she should call their attention to cases for which they did not follow proper procedures, to the detriment of the case. At times, officers have called the prosecutor from an accident scene to verify some information; she encourages this contact because investigations done properly from the start aid the prosecution.

The prosecutor devotes resources to communicating with officers because it generally results in less time in court and more effective prosecutions. This in turn can reduce the officers' time spent in court. For instance, although officers may complain about the time it takes to properly complete a DWI report, the prosecutor is more likely to resolve the case early with a complete report and avoid the need for the officer to appear in court.

Prosecutors serving larger jurisdictions may not have the opportunity to get to know officers on a one-on-one basis. The largest cost involved with these practices is the time needed to develop training materials, hold training sessions, and continue ongoing communications with law enforcement. Nevertheless, providing these services can strengthen the relationship between officers and prosecutors and enable them to see that they are working toward the same ends.

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Washington County

The county attorney's office in Washington County, located in the metropolitan area with a population of 169,300, provides training opportunities each year for law enforcement personnel around the county. The training offers educational benefits for law enforcement officers and, in turn, produces advantages for attorneys who work with officers and rely on their expertise in making arrests and investigating cases.

Each annual training session is focused on areas of interest to law enforcement officers. The training includes a legal update to describe statutory changes or court decisions that may affect officers' work, as well as instruction on effectiveness as a trial witness. Other topics for training vary according to current needs and interests. During monthly meetings between the county attorney and chiefs of police, the county attorney learns of potential topics for training, such as instruction on chases or reasonable use of force. The office customizes training sessions to meet these local needs.

To attract law enforcement officers to the training, the office arranges the training sessions to officers' advantage. In addition to gearing the instruction towards topics of interest to officers, the county attorney's office offers training at no charge, during evening hours or on officers' compensatory time, and has arranged with the Peace Officer Standards and Training Board to award credits for course completion that help officers meet their continuing education requirements. The annual training is held in the county facility which provides a centralized meeting location, but the county attorney also holds training in locations around the county, as a convenience to the officers, when specific training needs have been identified. Despite these steps, it can still be difficult to entice officers to attend if they have to forfeit non-work time to do so.

Law-enforcement training offers direct benefits to officers and indirect benefits to prosecutors. The training can enhance officers' skills at tasks that affect cases, such as improving the collection of evidence. As important, the training interests officers in how to best investigate a case from the point of view of presenting it to a jury, as opposed to simply closing a file. Thus, officers are more likely to take the steps necessary to help prosecutors make the best case possible.

From the perspective of the county attorney's office, the training builds interpersonal bonds that enhance the working relationship between law enforcement and prosecutors. During the instruction, county attorney staff make it clear that they want and need to involve the officers in

various aspects of cases, such as the plea negotiation process. Attorneys feel it is important to address officers' concerns in plea negotiations because of their intimate knowledge of the case and because attorneys view them as representatives of the local standards of acceptability for the communities in which they work. Officers come away from training knowing that prosecutors want to work with them in ways that will allow both offices to accomplish their mutual goals of maintaining law and order.

All attorneys employed in the county attorney's office take part in organizing and offering this training. Time spent preparing for the training is an upfront cost; however, participating attorneys view the preparation and training as one of the obligations of their profession.

Although prosecutors' offices in most other jurisdictions can likely arrange similar law-enforcement training and reap comparable benefits, time limitations may be a roadblock. Setting aside time for planning and organizing the initial training may be the most difficult step, particularly where prosecutors are already stretched for time to meet court responsibilities. Working with organizations that have training experience, such as the Minnesota County Attorney Association, can help. Prosecutors in jurisdictions with one law-enforcement agency may find it easier to identify training needs and arrange the instruction than those where several different law enforcement agencies operate.

Training peace officers enhances the working relationship between law enforcement and prosecutors.

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3. Encourage Administrative Processes and Pretrial Diversion for Suitable Cases

For some cases, avoiding court proceedings may be a better and less costly alternative than prosecution. This can be done in essentially two ways: (1) through administrative processes designed to resolve violations of ordinances before they reach the criminal justice system and (2) through the criminal process by diverting cases from prosecution when the prosecutor deems them appropriate. Even though the first of these two options occurs outside of the prosecutor's office, we include it here because it can serve as an efficient alternative to the prosecution process; issues resolved through administrative processes would otherwise arise for prosecution through normal adjudicative channels.

Administrative Processes

Local governments use administrative processes to handle certain violations before they enter the criminal justice system. Administrative processes are intended to provide an effective, efficient, and less formal alternative to court proceedings. Cities with processes for resolving building code violations prior to or in lieu of prosecuting such violations are one example. These processes avoid using the criminal justice system unless the defendant appeals the decision rendered administratively. Administrative processes are akin to the violations bureaus in Hennepin and Ramsey counties (described in Chapter 1).

Typically the administrative process involves writing administrative citations for alleged violations of local ordinances, such as those regulating the sale of tobacco. Often these ordinances are related to licensing or regulation of

businesses. The jurisdiction designates impartial, independent hearing officers before whom persons who have violated these ordinances have an opportunity to be heard. The hearing officer may impose fines for violations from a schedule of fines adopted by the jurisdiction, set conditions that the violator must meet to have the fine waived, or dismiss the citation. Usually the process provides an appeal route for the violator.

Jurisdictions using administrative processes often are more interested in compliance with the ordinance, such as violations of noise ordinances, than in bringing the matter to court. In addition, penalties imposed by the court may be insufficient to justify the expense of prosecuting these relatively minor offenses. Jurisdictions typically use the administrative process for offenses that may otherwise go unenforced because the threat of jail (through prosecution in the courts) is perceived as too severe for the level of offense.

However, questions about the use of administrative

processes have made some jurisdictions proceed cautiously in this area. Although statutes authorize jurisdictions to adopt ordinances, they do not provide express authority for imposing administrative penalties. Cities without home rule charters have found this an especially gray area. Jurisdictions using administrative processes have justified the use as a means of enforcing ordinances they have express authority to adopt. Some observers have raised questions about whether the administrative processes are a substitute for municipal courts which were phased out in Minnesota years ago.

Recognizing these issues, the Non-felony Enforcement Advisory Committee (NEAC) recommended in its 1997 report that the Legislature authorize local governments to enact ordinances providing for administrative civil penalties.¹³

Administrative processes are less formal alternatives to court proceedings.

NEAC would require local governments using administrative processes to provide an opportunity for alleged violators to be heard before a neutral party or the elected council. The recommendation also included prohibiting ordinances with civil penalties that exceeded the sanctions provided for in comparable state statutes, with exceptions for certain activities such as the licensing of alcohol or food.

Pretrial Diversion

A second alternative for resolving certain cases outside of the formal courts comes into play after a case enters the criminal justice system. Diversion allows the prosecutor to decide against prosecution when more can be gained by offenders attending treatment or providing community service than by having their cases adjudicated. In turn, when used appropriately diversion can help serve the interests of the public when victims are compensated and

***Diverting
certain cases
from
prosecution
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going to court.***

defendants complete education or rehabilitation programs and are encouraged to avoid re-offending.

Pretrial diversion of appropriate cases can be useful when limited resources force prosecutors to use their discretion in

setting priorities among cases and spend higher proportions of resources on cases where more are warranted. The decision to divert suitable cases can also reduce the number of less serious offenses on the court docket, again focusing resources on more severe crimes.

Although the decision to divert an offender from prosecution rests with the prosecutor, state statutes limit to some degree eligibility for pretrial diversion in certain counties. Counties participating in the Community Corrections Act were required by the 1993 Legislature to establish a pretrial diversion program.¹⁴ Statutes limit eligibility in these programs to defendants who are first-time offenders, charged with property crimes, and who have not previously participated in a pretrial diversion program.¹⁵ However, this statute does not require all prosecutors throughout the state to use this particular program of pretrial diversion.

Minnesota's Rules of Criminal Procedure list conditions that defendants may have to meet during the period that prosecution is deferred, although the conditions are not exclusive. The conditions are that the defendant: may not re-engage in activities related to the crime charged; may be required to participate in a supervised rehabilitation program including education or counseling or perform community service; and may be required to make restitution for losses caused by the charge.¹⁶

To make pretrial diversions effective and fair, prosecutors should establish standards for the program and ensure that they are enforced uniformly. We found that:

- **In 1995, about 70 percent of county attorney's offices reported that they diverted certain adult cases from prosecution and 40 percent had specific adult diversion programs designed for certain non-felony offenses. Among city prosecutor's offices, 80 percent reported diverting cases and 40 percent had specific diversion programs.**

Prosecutors' offices with diversion programs for specific offenses have focused the programs on

13 Non-felony Enforcement Advisory Committee, *Final Report* (St. Paul, January 1997), 50-51.

14 The 31 counties participating in the Community Corrections Act are: Aitkin, Anoka, Blue Earth, Carlton, Chippewa, Cook, Crow Wing, Dakota, Dodge, Fillmore, Hennepin, Kandiyohi, Koochiching, Lac Qui Parle, Lake, Morrison, Nobles, Norman, Olmsted, Polk, Ramsey, Red Lake, Rice, Rock, St. Louis, Stearns, Swift, Todd, Wadena, Washington, and Yellow Medicine.

15 *Minn. Stat.* §401.065, subd. 1.

16 *Minn. R. Crim. P.*, 27.05, subd. 1.

crimes such as worthless checks, shoplifting, and theft. Some also have specific programs for domestic assault and certain DWI cases.¹⁷ Project Remand and Operation De Novo are two independent, non-profit agencies that provide diversion services in the metropolitan area under contracts with Ramsey and Hennepin counties, usually in cases involving first-time property offenses such as theft. They work with prosecutors, defense attorneys, and victims to identify appropriate defendants for their diversion programs. Even though prosecutors may use diversion programs for these specific offenses, not all first-time defendants of these charges are necessarily diverted; the prosecutor may have additional eligibility criteria such as a dollar threshold for theft offenses.

Most of the diverted cases in 1995 were ones for which prosecutors either later dismissed the charges or did not charge. Charges can be dismissed when the defendant meets the conditions of the diversion or new charges arise for the same defendant. According to our survey:

- **A majority of county attorneys reported that at least 95 percent of their diverted cases resulted in charges dismissed or not filed in 1995. City prosecutors reported similar success rates.**

Examples of Pretrial Diversion and Administrative Processes for Suitable Cases

The following examples describe how prosecutors' offices developed and used specific diversion programs and an administrative process for resolving certain issues.

Coon Rapids

In Coon Rapids, a city in Anoka County with about 62,000 residents, the city attorney's office instituted programs to divert violations of parking ordinances

and nuisance codes from prosecution. The diversion programs have had success in focusing city attorney resources on more serious offenses and inducing violators to pay fines or repair properties, as appropriate.

In 1995, the city attorney's office began a diversion program for parking violations. Part of the motivation behind this diversion effort was strong interest from district judges in having attorneys appear at all arraignment hearings. To avoid numerous appearances for arraignments on parking violations, Coon Rapids prosecutors joined with the police department in a program to divert these violations from prosecution.

Under this program, parking violators receive notices on their windshields describing the offense and informing them that they have the option of paying a \$20 fine to the city or face prosecution. Because the city uses special forms for these parking violations, the police department found it necessary to train officers on the new practices. After officers write these notices, police department employees enter information from them — the officer's badge number, location of offense, and name and address of the defendant — into a police database. This is a common database shared electronically with the city attorney's office via network link, although the link could be accomplished using modems and dedicated telephone lines.

The prosecutors' computer system automatically generates a warning letter to violators with unpaid violations after 20 days. The system uses a form letter from its word processing program linked to relevant information in the shared database. Upon receipt of the letter, violators have a chance to pay the fine by a given date or face prosecution. The office prints the date in boldface to catch more people's attention and increase the likelihood of payment. For cases where violators do not respond, the city attorney issues a criminal complaint, again using data and a form generated by the database. Such complaints then proceed through the court system as do other misdemeanors.

¹⁷ Several jurisdictions have diversion programs specifically for juveniles although juvenile offenses are beyond the scope of this report.

Response to this system has been quite favorable from the perspective of the city attorney's office and police department. Between 75 and 80 percent of violators respond to the letters by paying the required fine. For instance, out of about 560 parking violations in 1995, 450 were successfully diverted from prosecution. Diverting a significant volume of parking violations allows the city attorney's office to focus resources on more complicated or serious offenses.

The automated arrangement produces warning letters efficiently and promptly. It negates the time-consuming and mistake-prone activity of re-entering necessary data, such as the defendant's name and address or location and date of offense. Instead, information stored in the database is automatically inserted in the warning letter and, if necessary, in the complaint.

Although Coon Rapids handles the majority of parking violations this way, the arrangement offers flexibility. Vehicle owners who wish to contest their parking violation notice will be issued a citation and have an opportunity to contest it in court. Furthermore, the police captain has authority to cancel the violation notice and fine if mitigating circumstances justify it. With computerized data,

A shared database between police and prosecutors allows efficient diversion of parking violations.

prosecutors can readily spot when new charges are filed for the same defendant and, thus, help determine whether to divert.

For this program to work, the police department and the city attorney's office each had its own computer terminals which were then connected

electronically via network cabling and Novell network software. This permitted the two offices to share a parking violations database developed by an assistant city attorney. Coon Rapids passed an

ordinance stating that persons who agreed to pay would not receive a court citation, giving an incentive to citizens to heed the warning letter and pay the fine.

Jurisdictions contemplating a similar arrangement would need sufficient resources to develop or purchase software for the database, as well as the computer hardware and network connections or a modem system, if they are not already in use. Computerized systems also require ongoing maintenance and periodic upgrades as communities' needs evolve and laws change. Jurisdictions with their own information-systems personnel may find it easier adapting this arrangement than others. Training is necessary for users in both the police department and attorney's office.

Moreover, the city attorney's office must set eligibility standards that determine who may and may not have prosecution diverted. For instance, the standards may allow diversion only for parking violations and not moving violations; prosecutors may not wish to divert charges in cases when new charges have been filed subsequent to the parking violation.

In addition to the parking violation diversions, the city attorney's office developed a nuisance code enforcement program in the middle 1980s to divert these cases from prosecution. The city's main interest was in having code violations cleaned up as opposed to taking violators to court. Consequently, instead of being prosecuted, these code violators receive a notice describing the code, the violation, and what needs to be corrected.

Violators have the opportunity to discuss their situation with the city's code enforcement manager and, failing that, for a hearing before an administrative law judge hired by the city. If dissatisfied, the violator may appeal the results of the hearing to the city council, and finally to district court. The city takes action to abate the problem with the property and assesses charges for doing so against violators if they fail to clean up their

properties or request a hearing. An unpublished appeals court opinion validated the basic process.¹⁸

Most code violations in the city are remedied this way. Abatement action is common; however, in only one instance since 1986 has the process yielded a case that eventually went to court. Coon Rapids' code enforcement manager administers the program which keeps it out of the city's legal department. To adopt this program, other jurisdictions would need personnel equivalent to a code enforcement manager to administer the program and conduct hearings; they could choose to hire qualified persons on contract to preside at hearings.

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Morrison County

In Morrison County the county attorney's office instituted a diversion policy for certain low-level crimes. The diversion policy affects a relatively small percentage of total non-felony cases yet helps focus county attorney resources on cases of greater magnitude. Prosecution is diverted only for specific crimes and only for defendants likely to respond to conditions attached to the diversion.

In 1989, Morrison County started a diversion program for juvenile crimes. Both the county attorney's office and the Central Minnesota Community Corrections agents worked on developing the program. It was made clear that the decision whether to charge or divert a case rested solely with the prosecutor. The probation office determined the parameters for appropriate conditions that the defendant would have to meet to avoid prosecution.

When the Minnesota Legislature passed a law in 1993 requiring certain counties to establish pretrial

diversion programs for adults, Morrison County adapted the operating procedures in place for diverting juvenile offenders.¹⁹ Under procedures for non-felony offenses, when the county attorney decides to divert a charge, the offender meets with a probation officer to sign a contract. The contract specifies conditions, such as community work service, completion of chemical dependency treatment, or payment of restitution, that the offender is obligated to meet. If the offender fails to comply, the probation officer reports it and the county attorney brings a complaint against the offender for the original offense.

Most of the diverted non-felony offenses in Morrison County involve writing bad checks, illegal liquor consumption, certain theft cases, or disorderly conduct. The county attorney only diverts offenders when he is comfortable that he could prosecute them successfully. Otherwise, offenders would view the program as one with no penalty for failure to comply. As mentioned earlier in this report, for specific pretrial diversion programs in certain counties, state law limits eligibility for diversion to first-time offenders who have not previously participated in a diversion program and whose offenses are not crimes against a person. In addition to these criteria, the office of the Morrison County Attorney will only divert offenses under a \$2,500 limit where value is involved.

***Diversion
reserves court
and
prosecution
resources for
more serious
crimes.***

For Morrison County, the main benefits of using pretrial diversions are that they (1) help reduce the backlog of criminal cases, (2) offer a speedier response to criminal behavior, and (3) reserve court and prosecution resources for more serious crimes. From the county attorney's perspective, the diversion program saves money and time because

¹⁸ Ternes vs. City of Coon Rapids, No. C8-87-2456 (Minn. Ct. App., June 21, 1988 unpublished).

¹⁹ Minn. Stat. §401.065.

the office can avoid certain steps such as drawing up the complaint and making court appearances. However, probation officers incur costs because they must handle and monitor the cases of diverted offenders. In Morrison County, diverted offenders have added between 3 to 5 cases per month to the adult probation caseload and about twice that number to the juvenile probation caseload.

From Morrison County's experience, prosecutors need to involve law enforcement as well as the probation office in developing the diversion program to make it succeed. Unless officers are aware of the program they could provide contradictory information to the defendants. Plus, officers are interested in knowing why offenses they investigated or ticketed are not prosecuted.

Staff in the probation office have to be willing participants for a successful diversion program. Because they interact with diverted offenders and monitor the cases, probation officers' cooperation is key. If a pretrial diversion program increased the probation officers' caseload to a point where they needed additional staff, jurisdictions would have to weigh the costs and benefits of doing so. In these situations, the county has to determine whether the additional costs of probation officers are offset by the advantages accruing to society at large, the victim, the prosecutor's office, and court system due to the diversion.

One difficulty arises when prosecutors try to determine whether the offender has committed previous misdemeanors. Although prosecutors may be able to detect offenders with criminal records within the county, they cannot easily determine what misdemeanors these offenders may have committed elsewhere. This data limitation hampers the ease of making appropriate diversions.

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4. Use a Victim and Witness Assistance Program

Prosecutors should, either through their own office or by using community organizations or other offices, avail themselves of a victim/witness assistance program. Such programs can work to the advantage of both prosecutors and victims. Prosecution efforts to develop effective relationships with victims and witnesses encourage these individuals and others to report crimes and follow through with identifications and testimony. This assists the prosecutor's case.

State statutes require county and city attorneys to develop plans for domestic abuse cases and provide certain information to victims.²⁰ Prosecutors must involve domestic abuse advocates, law enforcement officers and others in the development of the domestic abuse plans. Statutes also require all prosecutors to: inform victims of plea agreement recommendations and their right to be present at the hearing, seek input from victims before using pretrial diversion for specific offenses, notify victims of certain actions the prosecutor takes regarding domestic assault or harassment, and make efforts to notify victims of final case dispositions.²¹ However, statutes do not require universal availability of victim/witness assistance programs.

Beyond aiding the prosecution, victim/witness programs provide direct benefits to the victims and witnesses served.

Assistance to victims and witnesses can include many services, from notification about case developments to advice on issues of personal safety. Not all services are necessarily appropriate for prosecutors to provide directly and some services require cooperative efforts among various agencies. For example, prosecutors may have an

Programs to aid victims and witnesses can also benefit prosecutors.

²⁰ Minn. Stat. §611A.0311.

²¹ Minn. Stat. §611A.03-611A.039.

obligation to pursue a case even when the victim is reluctant to cooperate; in these instances, victims may be more receptive to an intermediary such as a victims' advocacy organization. The advocates are generally trained to help provide appropriate services, such as information on emergency shelters, which frees attorneys to perform their legal duties.

A majority of county and city prosecutors reported that a victim/witness program was available in 1995, with a variety of services provided at times by multiple agencies. Our survey showed that:

- **About 75 percent of county attorneys and slightly more than 55 percent of city prosecutors indicated that victim/witness assistance programs were available in 1995.**

Jurisdictions where victim/witness programs were available tended to be those with larger populations and heavier caseloads. About 61 percent of counties with victims services had populations greater than the 23,400 median and 53 percent had higher than median non-felony caseloads. Cities indicating availability of victim programs had a median population that was twice that of other cities and 65 percent of them had higher than median non-felony caseloads.

Cities with their own prosecution staff were more likely to have a victim/witness assistance program available than were cities using private firms for prosecution. About 78 percent of the in-house prosecutors reported having such a program available, compared to 57 percent of cities using private law firms.

Responsibility for financing and operating victim/witness programs varied from jurisdiction to jurisdiction. The county attorney's office was primarily responsible for financing victim/witness assistance programs in many counties. Many cities used victims programs financed by private organizations or by the county. Private organizations providing victims services were available both in counties where county attorneys had their own victim/witness program and in counties without such a program. As shown in Table 2.1:

- **About 41 percent of county attorneys reported that their office was primarily responsible for financing the victim/witness program in 1995 and another 20 percent said a private organization was primarily responsible. About 33 percent of city prosecutors where victim programs were available reported that private agencies primarily**

Table 2.1: Primary Source of Financing for Victim/Witness Assistance Programs, 1995

Financing Source	Counties where Victim/Witness Programs were Available (n = 46)	Cities where Victim/ Witness Programs were Available (n = 141)
County Attorney's Office	41.3%	27.8
Multiple Organizations ^a	23.9	11.4
Private Agency	19.6	32.9
State	13.0	1.3 ^b
Sheriff	2.2	2.5
City	N/A	17.7
Unknown	N/A	6.3

Source: Legislative Auditor's Office Survey of County and City Attorneys, 1996.

^aFor counties, "multiple organizations" typically meant a combination of county, state, and /or non-profit or other private sector grants. For cities, it typically meant a combination of financing by the city, non-profit agency, and /or county.

^bOne city indicating the state or county financed the program was included with those indicating county financing.

financed the programs and about 28 percent said the county did so.

In a few counties, financing victims services was a joint responsibility among more than one agency, such as a combination of county, state, and non-profit or other private sector grants. The state finances victim services through 15 county attorney offices serving 17 counties, according to the Minnesota Department of Corrections.

About 24 percent of city prosecutors indicating that victim/witness programs were available reported that the city was primarily or partially responsible for program financing. Most of these were large, metropolitan-area cities with 10,000 or greater populations and were represented by private firms.

In areas with victim/witness programs available, there is a wide range of services offered. As described earlier, Minnesota statutes afford certain rights to victims in adult criminal cases (as well as in juvenile proceedings), some of which relate to prosecutor responsibility for communication or notification. But many prosecutors had available in 1995, or worked with other organizations that made available, additional resources for victims. The

range of services provided by the victim/witness programs varied around the state from those that simply notified victims of court events to others with a comprehensive set of victim services. Table 2.2 shows that in 1995:

- **At least 70 percent of counties with victim/witness assistance programs available had, as part of that program, services to address victims' immediate emergency care needs, as well as legal information, assistance with seeking compensation, or other services.**

In cities where a victim/witness program was available, 67 percent of the programs provided referrals for emergency needs.

Offices of county attorneys and city prosecutors also offered specific services in conjunction with the victim/witness program in their areas. We found that in 1995:

- **In areas with victim/witness programs available, about 57 percent of county attorney's offices offered opportunities**

Table 2.2: Services Available Via Victim/Witness Assistance Programs 1995

Service	Percent of Counties With Victim/Witness Programs Where Service Was Available	Percent of Cities With Victim/Witness Programs Where Service Was Available
Notification of court dates	87.0%	63.3%
Assistance in preparing victim impact statements	87.0	54.4
Information on results of proceedings	80.4	60.8
Referrals for emergency shelter, food, other needs	78.3	67.1
Assistance with return of property or seeking victim compensation	71.7	53.2
Providing legal information on civil or criminal remedies	71.7	50.6
Assistance in applying for witness fees	56.5	41.8
Transportation to court	56.5	36.7
Child care or escort services during court appearances	39.1	29.1

Source: Legislative Auditor's Office Survey of County and City Attorneys, 1996.

for their staff or program volunteers to participate in victim-related training.

Another 63 percent reported interacting with other professionals to improve responsiveness to needs of victims and witnesses. About 46 percent of city prosecutors in cities with programs available said they offered services in conjunction with the program.

Examples of Using Victim and Witness Assistance Programs

In the examples that follow, we describe different methods of using victim and witness assistance programs, both within and outside of prosecutors' offices.

Carlton County

The county attorney's office in Carlton County makes use of a victim/witness assistance program that operates with federal, state, and county funding. The goals of the program are to help ease the physical, emotional, and financial hardships caused by crimes and to reduce potential confusion and inconvenience caused by involvement in the criminal justice system. The Carlton County Attorney's Office prosecutes non-felony offenses on behalf of all communities in the county.

The victim/witness program was initiated in 1995, replacing a previous victim/witness service in which the county had participated but not coordinated. Staffed by one coordinator, Carlton County's victim/witness program provides: victim notification of rights, assistance in preparing subpoenas, information on organizations to contact, safe places for victims to stay, updates on cases, and liaisons with law enforcement and probation workers. In fiscal year 1995, the program provided assistance to over 300 individuals directly victimized by a crime and over 100 individuals indirectly victimized. Of the victims assisted, roughly 65 percent were victims of misdemeanor offenses while the remainder were split between gross misdemeanor, felony, and juvenile offenses.

The victim/witness coordinator in Carlton County, who lives in the community and has a law enforcement background, worked with county law enforcement to

develop a process for initial contact with victims. When an officer charges a crime, the officer gives the victim a card that shows the report number, offense, officer badge number, and date and time of the report. The back of the card outlines

crime victim rights and services and the number of the county's victim/witness assistance program, as well as six additional organizations for victims to call for further assistance. Via the county attorney's office, the victim of any defendant scheduled for pretrial also receives a personalized letter outlining the rights of the victim and the name and number of the victim/witness coordinator. Typically, over 85 percent of the victims who receive written information contact the coordinator.

The state and federal grant for the program, administered through the Department of Corrections, requires a 25 percent match by the county. The total cost of the program, with the county match, is approximately \$41,000 per year. Although the county contribution comes from the county's general fund and fine revenue, the program is housed in the county attorney's office to facilitate communication between the coordinator and prosecutors.

The benefits of the victim/witness program realized by Carlton County's attorney's office include increased victim and witness cooperation and a standardized program in which all victims and witnesses can participate. While the county attorney and the victim/witness coordinator believe all counties could benefit from a similar program, both stress the advantage of having a coordinator with strong ties to the community. In addition, the coordinator believes the program could benefit

Standardizing a process for contacts with victims and witnesses has increased their cooperation.

from volunteers, who would allow him to devote additional time to more serious cases. A strong volunteer base has not yet emerged in Carlton County due to its relatively small population. In a community where most individuals know one another, discomfort over sharing crime victim information may discourage some people from volunteering.

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or

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Carlton County Victim/Witness Assistance
Program Coordinator
(218) 384-9170

Coon Rapids

The Coon Rapids City Attorney's Office developed a victim/witness assistance program to improve its opportunities for resolving misdemeanor domestic assault cases at pretrial conferences. Since instituting the program in 1994, the victim/witness program has achieved great success in contacting and working with the overwhelming majority of victims. Early and persistent contacts with victims have provided the information prosecutors need to dispose of many misdemeanor assault cases at pretrial conferences. Coon Rapids' success has become a model for other jurisdictions in the county.

In 1994, district judges in Anoka County abolished pretrial conferences for misdemeanor domestic assaults because insufficient contacts with victims resulted in very few case resolutions by the pretrial date. Instead, such cases were immediately scheduled for trial. At that time, the Coon Rapids City Attorney's Office proposed a pilot project to increase and improve contacts with victims. With

the approval of the judges, the office proceeded with an intensified program of victim contacts.

One of the support staff in the city attorney's office was given responsibilities for communicating with victims and collecting and screening information from them. When hearings on misdemeanor domestic abuse cases are scheduled, the city attorney's screener sends a letter to the victims with information about the hearing and a request for the victims to contact her. Because many victims are reluctant to call the screener, she telephones any victims that do not respond to the letter.

To guide the screener in collecting appropriate information from victims, the office developed a victim impact worksheet. Typical information gathered on the worksheet includes the victim's verification of incidents listed in the complaint, whether a no-contact order was issued or whether the victim wanted such an order, and the victim's cooperation and availability for trial. This impact worksheet fulfills statutory requirements as well as provides information necessary to the case.²²

Not only does the screener elicit important information from the victims, but she also provides victims with information they may find useful. During conversations, the screener tries to establish a high comfort level for the victims. With cases of domestic assault, she is mindful that victims may not be able to speak freely because of the possible presence of the defendant. When victims are unsure of what the criminal justice system can provide, the screener describes what to expect. For instance, she explains that the charge can be upgraded to a gross misdemeanor if another offense occurs. As another example, when victims want the perpetrators to attend counseling, the screener explains that the judge cannot order counseling unless the case is prosecuted, which requires victims to cooperate with the prosecutor.

The screener is not a victims' advocate per se, but can provide information about advocacy programs. Although police officers typically give victims information about safe-house programs, the

²² Minn. Stat. §611A.037 states that a presentence investigation report shall include victim impact information. Minn. Stat. §609.115, subd. 1 says that the court may require presentence investigations, including information relating to victims, when a defendant has been convicted of a misdemeanor or gross misdemeanor.

screeners also has information about resources in the community to which victims can turn for help with transportation, child care, or emergency shelter needs.

With this approach the screener reaches between 90 and 95 percent of the victims. Even when victims do not want to pursue charges, the screener will instruct them to appear in court to tell the judge that the incident did not happen. If the screener cannot reach the victim by letter or telephone, she prepares a subpoena for a pretrial conference. Community

A high rate of contacts with victims leads to earlier case dispositions.

service officers deliver the subpoenas within the county.²³

Due in part to the high rate of contacts with victims, the city attorney's office is able to resolve most of the misdemeanor

domestic assault cases at pretrial conferences instead of awaiting trial. Early disposition creates advantages for victims because sanctions tend to have more impact when they occur nearest the time of the offense. It is also beneficial to prosecutors and the court system because of resources saved in avoiding trial. In addition, the screener acts as an intermediary for prosecutors, freeing them for other duties. The city's success with the program led judges to agree in 1996 to extend the pretrial conference option to other jurisdictions that adopt similar victim-contact procedures.

Adequate time is needed for the screener to communicate with victims. In Coon Rapids, the city attorney's office managed this in part with efficiencies gained through office computerization. Because automation allows letters and forms to be quickly generated using data from a database shared between the police department and attorney's office, it frees time for the screener to contact victims. Other jurisdictions that stand to benefit from a program of enhanced victim

communication need personnel resources to make the written and oral contacts.

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Freeborn County

The Freeborn County Attorney's Office works with the county's crime victim crisis center to provide a victim/witness assistance program. In operation since 1988, the program is staffed by a victim/witness coordinator and financed with state and county revenues.

The county attorney's office and the county human services' Crime Victim Crisis Center jointly applied for state grants to finance a victim/witness position that would serve both offices. While the victim/witness coordinator initially divided her time equally between the two offices, she now devotes a larger amount of time to the county attorney's office to facilitate case coordination with prosecutors.

Among other services, the victim/witness program coordinator: acts as a liaison between victims of and witnesses to crime and the county attorney's office, assists the county attorney's office with the preparation and trial of criminal cases by notifying and coordinating witnesses to testify in court, educates witnesses as to their role in the criminal justice system, notifies victims of their rights and provides assistance to victims seeking to secure those rights, assists crime victims in seeking reparations, and maintains and provides records necessary to the management of the victim/witness services program. The county attorney's office also provides community outreach through formal and informal speaking events, community education on victimization and the availability of victim/witness services, and training on victim/witness issues for law enforcement personnel.

²³ Although the subpoena may be necessary before certain victims will appear in court, some prosecution offices view such use of subpoenas as a revictimization of the victim and, therefore, avoid using them for this purpose.

State grant money pays the \$27,000 salary of the victim/witness coordinator. The attorney's office pays for the coordinator's training, as well as all other operating expenses. Costs incurred by the county attorney's office are minor compared to the returns. The county attorney cannot adequately provide the personal contact important to maintaining the cooperation of victims and contributing to successful prosecution. Not only does the coordinator provide this contact, but she also supports communication between prosecutors and victims.

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Grand Rapids

The prosecuting attorney's office for Grand Rapids, a city with 8,000 residents located in Itasca County, works with the county to provide information on rights to victims of crimes. Although a victim-assistance program has been available in Grand Rapids for over eight years, the prosecuting attorney's office has increased its efforts to inform victims within the last four years.

When the prosecuting attorney's office first initiated its victim-assistance program, it sent only a restitution form to the victim. By contrast, the office now sends a personalized letter to the victim that outlines restitution rights and informs victims of local services available to them. The letter also informs them of the services offered by the county attorney's victim-assistance program, including the name and phone number of its victim-assistance coordinator. Along with the personalized letter, the office sends a packet of victim rights information. This packet includes a restitution and affidavit claim form and instructions for filing, a bulleted list of victim rights, and what to do if the victim receives a subpoena. The information also contains the prosecuting attorney's office number to contact with additional questions and a list of six organizations the victim can call for further information.

The prosecuting attorney's office receives the names of victims to notify in one of two ways. If the prosecuting attorney charges the offense, his office immediately sends the packet of information to the crime victim.

If an alleged defendant receives a ticket or tab charge, the clerk of court notes any victim status on the file and forwards the victim information to the prosecuting attorney's office. A form letter allows the office to insert the personal name and address of the victim as well as defendant information (the name of the defendant, the date of the offense, and the court file and initial complaint report numbers) and the date of the defendant's first appearance.

Since implementing the program, the prosecuting attorney has noted a marked increase in the number of victim calls received by the office. The prosecuting attorney believes all jurisdictions could benefit from a similar program, but thinks a good working relationship with the county victim-assistance program is an important element in ensuring the program's success. The practice succeeds in Grand Rapids because the county has an established victim/witness program.

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***The city
prosecutor
works in
concert with
the county's
program for
victims and
witnesses.***

5. Establish Guidelines to Set Priorities Among Cases

Written guidelines establish parameters and provide uniformity and predictability for charging and prosecuting decisions, within the scope of prosecutors' discretion. They steer an office's priorities toward the crimes that the chief prosecutor defines as more serious or more prosecutable. Guidelines should reflect the prosecutor's discretion in determining which cases will be accepted for prosecution, which cases can acceptably be disposed of by a plea to a reduced charge, and which cases are most appropriate for disposition by either pretrial diversion, plea agreement, or trial.

Guidelines are the manifestation of prosecutors' decisions on how to balance resources — time and personnel — against their caseload and how to assign resources to cases with highest priority.

- **Using guidelines helps ensure that similar cases are treated similarly, protects against unfairness and the use of inappropriate criteria (such as religious affiliation), and provides a basis for justifying prosecutors' discretionary decisions.**

Especially in jurisdictions where more than one prosecutor is reviewing and charging cases, written guidelines promote consistency among assistant prosecutors and assure uniformity and predictability in executing the county or city attorney's philosophy and prosecutorial discretion. Written guidelines can also be advantageous in training new staff.

Each prosecutor's office must write its own guidelines for charging decisions because no single set could reasonably apply statewide. Guidelines may vary from jurisdiction to jurisdiction depending upon local needs and priorities. On the other hand, we learned about city prosecutors who joined others from within the same county to develop guidelines that promoted consistency in charges across the county. We found that:

- **In 1995, about 52 percent of county attorneys and 25 percent of city prosecutors had or were developing written guidelines.**

Smaller counties (below the median 23,400 in population) were less likely to have written guidelines than more populous ones. This might be because a prosecutor's office with a single attorney has less need for written guidelines as uniformity is not as much of an issue. These smaller counties were also more likely than larger counties to have less than one full-time equivalent (FTE) attorney for non-felony prosecution. Similarly, among city prosecutors, about 83 percent of those with or developing written guidelines were in larger cities with over 1,000 population.

Of the county attorney's offices with written guidelines, 79 percent considered them either very helpful or moderately helpful in setting priorities among cases. More than 88 percent of city attorneys with written guidelines considered them very helpful or moderately helpful.

Example of Establishing Guidelines

The following example describes one approach to developing and using written guidelines.

Freeborn County

The county attorney's office in Freeborn County, a county in south central Minnesota with 33,000 residents, uses written guidelines for charging and plea negotiation. The office adopted the guidelines in 1992 and revises them periodically. In Freeborn County, the county attorney's office is responsible for prosecuting non-felony offenses on behalf of about three-quarters of the cities there.

The guidelines for charging outline: prosecutorial discretion, propriety of charges, factors to consider in making the charging decision, and inappropriate considerations. For example, in their charging decisions, prosecutors consider the probability of conviction and the interests of the victim, among other factors.

Additionally, the guidelines address specific charging considerations for misdemeanors, victim interviews, suspect statements, forfeitures, victim and witness identification, firearms, and drug testing. For instance, the guidelines state that in cases involving a crime against a person, “the victim should be contacted prior to charging ” and if the victim cannot be contacted prior to charging, “efforts should be made to contact the victim as soon as possible.”

Plea negotiation guidelines define the negotiation process and the dispositions allowed by the county attorney’s office in resolving cases. The guidelines also outline some of the factors the office will use in examining and considering appropriate pleas, including the offense, the victim, the offender, and the strength of the case. For example, a strong case with a cooperative victim means the prosecutor will be less likely to accept a plea bargain. The policy specifically prohibits negotiating pleas based on

**Written
guidelines
assure
consistency
among cases
around the
county.**

personal or political advantage; race, gender, social or economic status of the accused, victim, and/or witness; and for reasons solely related to economy of time or expense.

The county attorney’s office distributes the

guidelines not just to prosecutors, but also to officers in the sheriff and police departments, public defenders, and judges. The only real cost is the time involved in writing the initial guidelines and revising them. The guidelines offer advantages to the county attorney’s office, the largest being the benefit of having explicitly defined prosecution policies to which all prosecutors adhere. Guidelines help assure consistency not just among similar cases from community to community, but among prosecutors as well.

While jurisdictions of any size could benefit from the use of guidelines, smaller communities may

have an advantage in implementing them. Smaller communities have fewer stakeholders involved in working with the guidelines which can make implementing the guidelines easier.

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6. Maintain Access to Adequate Equipment and Facilities

Prosecution effectiveness and employee productivity depend on the availability of equipment and facilities needed to perform the job. Here we examine two components: (1) automation of case management and (2) access to research equipment and facilities. Other aspects of facility use important to prosecutors’ work, such as the need for private office space for confidential matters, are not explored here although other resources exist for this purpose.²⁴

First, as described in Chapter 1, the computerization of information systems related to non-felonies is lacking. The state’s criminal history data do not include misdemeanor or petty misdemeanor offenses and the state maintains a database of only misdemeanor traffic offenses. We learned of no jurisdictions where all participants in the criminal justice system — prosecutors, police, probation officers, the courts — share access to common information systems.

From the perspective of a single jurisdiction, however, several prosecutors’ offices have improved their efficiency and accuracy by computerizing their case management techniques. Effective record keeping allows the prosecutor’s office to manage the current caseload as it flows through various stages in the judicial process and as it affects different personnel in the office. It is also a useful management tool for planning and administering the office’s budget and staffing and

²⁴ For instance, see NDAA, *National Prosecution Standards*, 48-72.

measuring internal performance. For most offices, this means computerizing records. Furthermore, computerization is often among the first steps in establishing automated connections to other offices with whom prosecutors have ongoing contact, such as court administration or law enforcement. In Minnesota, prosecutors' offices with computerization for managing cases are in the minority. (Appendix F lists jurisdictions that used or were developing computerized-case management systems in 1995.) According to our survey:

- **About 37 percent of county attorney offices and 26 percent of city prosecution offices had or were developing computerized case-management systems in 1995.**

These offices represented jurisdictions that were typically among the larger ones in population and caseload. About 78 percent of county attorney offices using or developing computerized case management had populations greater than the

Most prosecutors using computers to manage cases represent counties and cities with large populations.

median county population of 23,400. These offices accounted for about 60 percent of all non-felony offenses reported by county attorney offices in our survey.

Similarly, city prosecutors using or developing computerized case management in 1995 were typically in large cities with

heavier caseloads. About half of city prosecutors reporting the availability or development of computerized case management prosecuted for cities with populations of at least 8,000 — about 10 times the median 740 population for all cities in our survey. Cities using or developing computerized case management accounted for about 79 percent of the non-felony caseload reported by city prosecutors in our survey. Only 18 percent of city

prosecutors using or developing computerized case management were in cities smaller than the statewide median.

We found that:

- **Computerized case management commonly gave the prosecution office the ability to track cases through the judicial process, automatically produce disposition reports, monitor information on victims and witnesses, and avoid redundant data entry.**

In addition, some offices used computers to maintain communication with other agencies. For instance, 10 percent of county attorney's offices and 16 percent of city prosecutor's offices used computers for connections to police or sheriff offices, according to our survey. About 15 percent of each had computerized connections with court administrators. These automated connections were not necessarily part of an integrated information system but were instead provided through separate computer terminals within prosecution offices.

A second tool is adequate access to research materials and facilities. In the legal profession, information and knowledge are fundamental to effectiveness — making library facilities and research databases especially important. For efficiency, lawyers need easy access to information to prepare their cases. The advent of computerized legal research enhances prosecutors' professional skills and may make geographic proximity to law libraries less important. We found that for 1995:

- **Almost three-quarters of county and city prosecutors' offices reported that they had access to adequate law libraries and about 43 percent of each said they had access to legal research databases.**

Examples of Maintaining Access to Adequate Equipment and Facilities

In the following two examples, we describe how offices for a county attorney and city prosecutor use computers to better manage their cases and provide access for research needs.

Roseville, Vadnais Heights, White Bear Township

The private law firm that provides prosecution services to Roseville, Vadnais Heights, and White Bear Township in Ramsey County has used a computerized system for managing its non-felony cases since 1992. The computerized system helps provide the organization needed for the city prosecutor to handle a sizable caseload of about 2,000 non-felony cases annually.

The computer system relies on database and word processing functions. With the computerization, the office can automatically generate notices and forms, such as complaints or Rule 7 notices regarding evidence; track witnesses and victims; monitor defendants' probation conditions; call up any file electronically for quick answers to questions from callers; group files by common characteristics such as court date; and keep and print current court calendars for multiple cases and attorneys.²⁵

One of the databases includes all criminal and traffic offenses and their statutory language. Using a specific code that is keyed to each offense, the user automatically retrieves language that can be inserted into a complaint, letter, or other form. With the word processing component, the office can take information from the database, tailor it to the specifics of a case, and print whatever forms are necessary. For instance, with the victim database, the system can automatically generate a letter to a victim, yet customize it by describing when to be in court and what evidence to bring. This process saves time by eliminating the need to re-enter repetitive information and by automatically generating letters and forms.

Each case has a summary sheet generated by the computer system. The prosecutor relies on the summary sheet in court as a quick reference to a case and its history. The summary sheet contains important case information including the offense and its statutory reference; defendant's name, address, and date of birth; defense attorney; court dates; victims and witness' names; and actions taken. Every time the prosecutor takes any action on the case, the office records it and the summary sheet is automatically updated. For instance, if the prosecutor speaks with victims who are reluctant to appear in court, she adds comments about their reluctance into the database and the information appears on the summary sheet.

Because the office uses a computer network, case information is available internally to all prosecutors and the administrative assistant. The common data base allows support staff to answer routine questions about cases from telephone callers, such as police officers. Consequently, this frees up time for attorneys.

The prosecutor uses the calendar function to know what cases are scheduled to be heard on any given date. If witnesses need to be notified, the computer automatically prints out notices using information from the witness database. The system pulls out the necessary information to order certified records for a case, lists dates on which the office requested the records, and tracks when they were received.

The office also records case dispositions with the computer. This is useful in producing reports on case outcomes every three months and annually for the firm's clients. From the case disposition reports, clients know what cases were prosecuted, the offender and date of the offense, the peace officer involved, when the case was decided and before which judge, disposition, and the sentence. The police

The computer tracks what cases will be heard on any given date.

25 Minn. R. Crim. P. 7 pertains to prosecutor notification regarding certain evidence against the defendant.

department can use the disposition reports to determine whether case outcomes were related to the actions of its officers, such as when “no probable cause” was found.

The firm used commercially available software to customize a system that met the office’s needs. Updates to the system and changes to the structure of the databases are ongoing. Most of these modifications are made by a computer specialist who comes into the office as needed. However, office staff make some of the less complex changes themselves.

The original cost of the network, software, programming, and five computers was approximately \$60,000, excluding ongoing maintenance and employee training costs. The office is currently upgrading its computer terminals for faster response time and ease in transferring from database to database. Other jurisdictions contemplating computerized case management should plan for regular system maintenance and upgrades. Unless personnel in the office already have computer expertise, the office will likely need to hire information specialists to help develop and customize a computerized system.

For more information contact:

Caroline Beckman

Prosecuting Attorney

Peterson, Bell, Converse & Jensen, P.A.

(612) 223-4999

Washington County

The county attorney’s office in Washington County uses computerization to improve its efficiency and help manage its workload. In addition to having computer terminals at the desk of each attorney and each support staff assigned to attorneys, the office maintains separate terminals for special functions such as criminal history checks.

A high and increasing volume of cases was the impetus behind automating the county attorney’s office in about 1991. Computerization was viewed as an investment that would allow the office to

manage its growing non-felony and felony caseloads at less overall expense than what would otherwise be needed to hire additional employees.

The primary computer system for managing cases is a free-standing, closed network in the county attorney’s office, independent of Washington County’s central AS 400 computer that serves other county departments. For county attorney use, the computer system needed to be designed as a free-standing network due to security concerns over potential unauthorized access to protected data. The local area network consists of a central server cabled to IBM-compatible terminals at employees’ work stations. Because of the network, attorneys and support staff can share files electronically.

The computer system offers case management capabilities, a calendar function, internal office electronic mail, and task management. To manage case files, the office combines database and word processing software, both commercially available software packages. The system allows the office to automatically and expeditiously generate formal complaints, letters, and other forms that can be easily customized to a particular case.

For instance, the office follows the following steps when opening a file due to an officer’s initial report or a defendant pleading not guilty to a ticket or failing to appear in court. First, support staff assign a number to the case and enter relevant information, such as name and address of the defendant, into the database.

Next, the prosecutor reviews the case. If after review the prosecutor decides there is probable cause to believe the defendant committed the crime, the attorney provides information to support staff to draft a complaint. Using characteristics from a “variables list” compiled by the office, such as statutory citations for specific crimes, and information codes from the office’s master charging book, the prosecutor dictates pertinent details: the offense, defendant, charging agency, and description of what was necessary to charge the crime at the level chosen.

Finally, support staff enter these data into the database which then pulls the appropriate language into pre-set formats that produce a complaint form for the attorney to review and sign. The process avoids the re-entry of repetitive information and produces the needed paperwork in a minimum of time.

In cases where prosecutors determine insufficient “probable cause,” support staff pull case information from the database to generate a letter to the police officer who made the report. This letter describes the case and why the prosecutor found no basis for probable cause.

The software also provides a calendar function with several features. Attorneys have personal electronic calendars to keep track of appointments and alert them of pending events. Separate electronic court calendars are on the network for felony, misdemeanor, civil, and juvenile matters. Support staff enter court information in these calendars as it comes into the office. On the calendars prosecutors may see, for any given day, the case name, name of the attorney scheduled to appear, and type of hearing, such as first appearance, pretrial, or omnibus hearing. The calendar also alerts staff to certain task deadlines; for instance, two weeks prior to a trial date staff receive a message stating this is the last day to send notices to witnesses.

For each case, the system maintains a “case memo” that provides a chronological history of the status of the case. The case memo describes relevant information about the case as well as each action taken for it, such as when the officer was provided notice of the pretrial conference, date the conference occurred, and the sentence and any conditions attached to it. The office retains case memos for all cases, even after closing a case and destroying other documents related to it.

In addition to this system for managing cases, the county attorney’s office uses other automation. An electronic mail system internal to the office allows attorneys to communicate with each other even though they are frequently in and out of the office for court appearances and other matters. The office

operates a separate computer terminal with access to the Criminal Justice Information Service (CJIS) maintained by the Bureau of Criminal Apprehension to check defendants’ criminal histories. Another separate terminal is connected to the county’s computerized network allowing attorney access to electronic mail from other county offices.

For tracking information on employee activity and performance, the office has access to the county’s automated payroll system. Managers in the county attorney’s office use timesheet data from this system as a management tool to track how much time was spent on different offenses and by service area or by employee on various pre-coded activities, such as preparing for court or court appearances. The data help in the management of caseloads and setting prosecution priorities.

Computerization requires an initial investment in hardware and software as well as additional expenditures for ongoing maintenance. Single computer terminals with monitors and printers similar to those in the county attorney’s office may cost approximately \$4,000, depending on the features desired. Software packages typically cost several hundred dollars per licensed user. Employee training is also necessary for optimal use of the system. Additional costs are involved with customizing programs to meet the particular needs of an individual office if such changes are deemed necessary. Steps must be taken to guarantee the security and integrity of the data. Upgrading the system is also necessary, such as when criminal statutes change; this is often completed in Washington County by the county’s information systems staff.

While the computerization in the Washington County Attorney’s Office is relatively sophisticated

The computer helps manage the caseload at less expense than hiring additional employees.

to handle the caseload and complex needs of that office, smaller offices could benefit from scaled down versions of this arrangement. Particularly in offices with more than one attorney or where numerous court calendars must be tracked, the benefits of case monitoring, electronic inter-office communication, and automated court calendars can pay off with increased office efficiencies and organization.

For more information contact:

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Washington County Attorney
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or

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Legal Office Coordinator
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7. Assure Prosecutorial Competence, Productivity, and Independence

Because an office's greatest asset is its employees, prosecution offices need to foster a high caliber work force and help employees work most productively. In addition, because prosecutors must avoid conflicts (or potential conflicts) that impair their independence or impede their ability to ensure just and fair criminal proceedings, they have to be prepared to call on help from outside their own employees when circumstances warrant. Many things contribute to a productive, independent work force, such as offices' hiring practices and employee training. Here we discuss four such elements for prosecutors' offices: (1) appropriate training for attorneys and other office employees, (2) hiring practices that assure high professional skills, (3) standards for dealing with conflicts of interest, and (4) use of paralegal staff.

First, prosecution offices should encourage and assist with ongoing training for their employees. Training can enhance employees' knowledge and

improve their skills, contribute to productivity and professionalism, and improve overall morale. The legal profession requires its members to attain a certain level of training to maintain their licensure. But beyond minimal requirements, to be valuable, training should be specific to the job at hand and tailored to employees' own skill levels and identified needs. Paying for or defraying the expenses of prosecutors' training shows that the office values continuing education and helps ensure that prosecutors participate in necessary training.

County attorney's offices in Minnesota typically put a high premium on training. We found that:

- **About 82 percent of county attorney's offices and 38 percent of city prosecutor's offices reimbursed their prosecutorial staff for continuing legal education in 1995.**

A smaller share identified employees' work skill needs and matched courses to meet those needs. By comparing the knowledge and abilities required for employees to perform well with current levels of employees' knowledge and skill, agencies are better prepared to recommend appropriate training. Targeted training that builds on individual workers' knowledge and skills to perform their jobs also helps the agency meet its own goals and objectives. This is true for both the professional and support staff. According to our survey:

- **About 37 percent of county attorney's offices and 15 percent of city prosecutor's offices reported that they required specific courses to meet identified training needs.**

Most of the training in which attorneys participated was through seminars provided by trainers outside

Training must be tailored to employees' skill levels and identified training needs.

the office. Two-thirds of county attorney offices reported that attorneys had training provided by others and 15 percent said they had in-house classes or seminars in 1995. Among city prosecutors, 55 percent had training available outside the office and 11 percent had in-house training.

A second tool for a quality work force is hiring practices that assure high standards of professional skill. Regardless of whether the chief prosecutor is an elected or appointed official, prosecutors should select their assistants and staff based on merit rather than on political connections. Competency more than partisanship helps provide the high-level skills needed for an effective prosecution function. Removing partisanship from the selection process reduces political pressures that could otherwise come to bear on individual prosecutors.

Third, prosecutors' offices must establish standards to deal with conflicts of interest. Activities that divide, or appear to divide, the interests of a prosecutor's office can undermine that office's efforts to fulfill its duties. This is a particularly important need for prosecutors because they do not choose where their cases come from; instead, the jurisdiction in which an offense occurs becomes automatically responsible for prosecution.

Therefore, prosecutors must prepare in advance for a consistent and fair process to identify and handle cases that present conflicts of interest. Although the standards for identifying conflicts of interest will vary depending upon the range of functions performed by the office, the process should include: (1) defining conflicts so they can be identified when they occur, (2) deciding correct courses of action to take given the circumstances surrounding the conflict, and (3) finding and appointing an appropriate special prosecutor, if one is required. It is common around the state for jurisdictions at both the county and city levels to create reciprocity agreements, such as that in Minneapolis and St. Paul, whereby prosecutors will work on cases from the other community when conflicts of interest arise.

Fourth, prosecution offices that use legal assistants, such as staff trained as paralegals, can assign certain duties to these staff and reserve for attorneys other functions requiring a law degree and legal experience. Because paralegals have some legal skills but not the full education of an attorney and are paid accordingly, they provide an efficient way for some prosecution offices to handle certain tasks. Paralegal staff cannot substitute for attorneys-at-law and are prohibited from functions such as giving legal advice, preparing legal documents, or conducting a jury trial.²⁶ However, paralegals can be used for other duties, such as performing records checks. According to our survey,

- **In 1995, paralegals and legal assistants were typically used in counties and cities with high non-felony caseloads and commonly worked only part time on non-felony offenses.**

Of those jurisdictions responding to the personnel question on our survey, 23 percent of counties and 28 percent of cities reported using a paralegal or legal assistant in 1995 for some misdemeanor-related functions. More than half of the jurisdictions reporting use of paralegals were those with very high caseloads — above the 75th percentile in number of non-felony cases. In most cases, the paralegals worked on non-felony cases for only part of the time.

Examples of Assuring Competence and Productivity

The following examples illustrate the value of paralegals and ongoing employee training.

Fairmont

Fairmont, a city with 11,300 residents located in Martin County on the Minnesota-Iowa border, employs a legal assistant in the city attorney's office. Trained as a paralegal, the legal assistant is

²⁶ *Minn. Stat.* §481.02.

responsible for multiple tasks that would otherwise require extensive time by the city attorney.

The legal assistant had previously worked with the current city attorney at a private firm, but Fairmont

The legal assistant frees the prosecutor to focus on matters requiring an attorney-at-law.

hired both of them in 1989. Duties of the legal assistant include: scheduling cases, notifying law enforcement of court appearance dates, responding to case inquiries by law officers, notifying victims of their rights, drafting initial complaints,

organizing case files, readying files for trial, and fielding questions from the public. The legal assistant's paralegal training allows her to perform more extensive tasks than would be possible for other administrative staff. This permits the city attorney to focus on matters requiring the skills and training of an attorney-at-law.

For Fairmont, the legal assistant is more cost efficient than hiring an assistant attorney. The legal assistant works three-quarters time in the attorney's office and one-quarter time as an administrative assistant for another city department. Because the salary of a legal assistant is less than that of a lawyer, the city's expense for legal services is lower than it otherwise would be while the city attorney is able to make the most effective use of her own time.

For more information contact:

Elizabeth Bloomquist
Fairmont City Attorney
(507) 238-9461

Roseville, Vadnais Heights, White Bear Township

A private law firm provides prosecution services for Roseville, Vadnais Heights, and White Bear Township. The firm places a priority on attorney

and administrative-assistant training to gain new knowledge and for networking purposes.

The firm fully reimburses the cost for two to three training sessions per year for attorneys. In addition, prosecutors encourage their administrative assistant to attend annual training, such as that provided by the Bureau of Criminal Apprehension, for which the firm pays. Employees are reimbursed for mileage to attend the courses. While the courses are specific to the employees' own work requirements, staff have leeway to identify training opportunities from which they are most likely to benefit.

Ongoing training is viewed as a way to stay current with evolving legal information and, thereby, do a better job for clients. Moreover, attending training sessions allows employees to build networks with their counterparts around the region. Networking can be as valuable to staff as the training course material itself because the working relationships they develop often yield contacts or help that are useful in the future.

Costs to the firm for reimbursing training are relatively low, at about \$1,050 for continuing legal education credits for three attorneys to attend two courses each, and about \$60 annually for the administrative assistant's training, plus travel. The expense of training is considered an investment to increase productivity and improve staff effectiveness. Being located in the metropolitan area may present an advantage because of proximity to numerous training opportunities.

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8. Set Goals and Objectives for the Prosecutor's Office

A prosecutor's office should set goals and objectives for its work and periodically measure how well the office meets those objectives. Formally setting goals and objectives makes office priorities clear and explicit to employees, generates information for internal monitoring of the office's success, and creates incentives for employees to work productively toward the office's common goals. Formal goals and objectives also communicate the prosecutor's priorities clearly to law enforcement, other professionals who interact with the office, and the general public. Prosecution offices that set goals for themselves, and design measurable objectives to assess how well those goals are met, are positioning themselves to improve their own performance. (Appendix C lists the objectives and performance measures that we considered during this review for prosecution offices and that local governments may choose to use in their own evaluations.)

Establishing performance measures is not easy, particularly for public institutions and for services, like prosecution, in which results are not always tangible or quantifiable.

Performance measurement allows offices to assess how well they are doing.

Nonetheless, without measuring performance it is difficult for an office to answer basic questions such as: What should the office be trying to accomplish with the resources available? How can the office identify strategies that are working well? What changes could improve strategies that are not successful?

We do not suggest that all prosecution offices use a single set of performance standards. Goals and especially objectives will likely vary from jurisdiction to jurisdiction. Measuring progress toward those goals will also differ.

Some goals, however, may be common to most if not all prosecution offices. We believe the four goals listed at the outset of this chapter apply to all prosecution offices. For instance, prosecutors generally share the goal of maintaining open and clear communication with local law enforcement personnel.

How this is put into practice, on the other hand, will differ among jurisdictions based on variables such as the jurisdiction's size, number of non-felony offenses, and local preferences. One jurisdiction might work toward this goal by increasing efforts to involve law enforcement input in the disposition of cases. Another might add or improve training for law enforcement on issues related to successfully bringing cases to court. A third might work on reducing the number of officers' unnecessary court appearances.

While many prosecutors in Minnesota appear interested in measuring office performance, few follow a formal process of setting goals for prosecution and measuring progress towards those goals. We found that:

- **About 55 percent of county attorneys and 50 percent of city prosecutors had or were developing informal methods for measuring office performance in 1995.**

Only two county attorneys and no city prosecutors indicated they followed a formal process of setting goals and objectives for non-felony prosecution.

9. Communicate with Others Involved in the Criminal Justice System and Participate in Efforts to Improve the System

Prosecutors should participate in efforts to improve communication with other actors in the criminal justice system as well as with members of the public. As stakeholders and visible participants in the judicial process, prosecutors should also be

involved in legal reforms and efforts to improve the effectiveness and fairness of the system. This requires being proactive in communication with law enforcement, court personnel, and legislators, representing the interests of prosecutors in reform efforts, and dealing with special concerns raised by *pro se* litigation. According to our survey,

- **Nearly 39 percent of county attorneys and 24 percent of city prosecutors said they assisted in efforts to improve procedures for the judicial process in 1995.**

Such efforts extend to interacting and improving relations with the Legislature. During our review, several prosecutors mentioned the need for better information to legislators on the implications of laws they pass. Prosecutors said that initiatives approved by the Legislature often have financial impacts for local governments. The practitioners are frequently in the best position to inform legislators about what effects can be expected from proposed law changes. According to our survey:

- **About 27 percent of county attorneys and 8 percent of city prosecutors reported working on proposed legislation or appearing before legislative committees as part of their prosecution duties in 1995.**

Another practice related to improving the criminal justice system is communicating with the public regarding criminal activity and crime prevention. Positive interaction between the prosecutor's office and the public fosters citizen support of efforts to reduce opportunities for crime. Public education promotes the goals and priorities of the prosecution office and encourages citizen involvement on behalf of those goals. In addition, citizens' involvement in their communities' crime prevention activities, such as block clubs, neighborhood patrols, and drunk driving prevention organizations, can help deter crime, which in turn affects prosecutors' caseloads. Prevention can be an efficient tool in the justice system that prosecutors can encourage. According to our survey, in 1995:

- **More than three-quarters of county attorney's offices and 31 percent of city prosecutors reported participating in speaking engagements with civic organizations or the general public as part of their prosecution duties.**

Finally, a large proportion of misdemeanor offenses are cases in which defendants represent themselves, known as *pro se* litigation, although precise numbers are unknown. Many *pro se* litigants lack a general familiarity with the courts or understanding of the criminal justice system, creating special concerns and

complications for the court and for prosecutors.

Because of the great volume of *pro se* litigation associated with non-felony offenses, these issues are of particular

concern for

misdemeanor prosecutors, although they affect all members of the judicial system. *Pro se* litigants also force prosecutors to face ethical questions about dealing with persons not represented by lawyers because rules on professional conduct proscribe giving advice to a person unrepresented by a lawyer except advice to secure counsel.²⁷

Many pro se litigants lack understanding of the criminal justice system.

Prosecutors have a responsibility to deal fairly with *pro se* litigants and take steps that reduce complications associated with them. This may include ensuring that prosecutors are present or available for arraignments when defendants appear to reduce the need for rescheduling hearings. The *Pro Se* Implementation Committee of the Minnesota Supreme Court Conference of Chief Judges has been studying issues related to *pro se* litigants and is expected to publish a report of its recommendations in the first half of 1997.

²⁷ Minn. R. Professional Conduct 4.3.

Example of Communicating with Others

The following example is one illustration of interactions between the county attorney's office and others interested in the criminal justice system.

Hubbard County

The assistant Hubbard County attorney, who is responsible for non-felony prosecution in the county, volunteers time to speak on criminal justice issues with students and other community organizations. He views these contacts as a natural extension of his role as a prosecutor.

Every year the prosecutor visits classrooms in local high schools or speaks on criminal justice issues with community groups such as the Rotary or Boy Scouts. Sometimes the discussions are in conjunction with a "career day" when students learn about the job of prosecuting, current issues prosecutors are working on, and advice for students. At other times, a teacher may ask the prosecutor to address a specific topic of interest to the class, such as students' rights in the justice system.

These visits are volunteer opportunities, usually for no more than an hour at a time during the workday. Preparation time for the contacts varies. For sessions related to career days, virtually no preparation is required; for topics of special interest to a particular group, an hour or two of research may be necessary.

Feedback from the sessions suggests that the contacts are helpful to students and others. Besides fulfilling a public education need, the contacts represent a way of maintaining favorable public relations between the prosecutor's office and the community. In addition, the prosecutor refreshes his own expertise as he collects information in preparation of the presentations. The only cost is the time needed to prepare and present, in exchange for better community relations. The impact of these contacts may be more easily seen in smaller jurisdictions where residents tend to know more of

their neighbors, but the need for such contacts exists in larger communities as well.

For more information contact:

John Masog
Assistant Hubbard County Attorney
(218) 732-9771

SUMMARY

In this chapter we identify goals for non-felony prosecution and recommend nine actions that can help prosecution offices meet them. Most of the goals and actions are appropriate for prosecution offices around the state, although some may be better suited for particular locations or caseload sizes. We used these goals and actions to help identify best practices related to effective and efficient prosecution offices. We recommend these practices for consideration by prosecution offices, while realizing that they are not the only practices that contribute to effective misdemeanor prosecution.

Survey Methodology and Results

APPENDIX A

As part of this review of prosecuting non-felony offenses in Minnesota, we surveyed county attorneys and a sample of city prosecutors. We conducted mail surveys of these two populations in October and November 1996. Because we wanted data on an entire year's worth of prosecution activities, we asked respondents to provide information for the 1995 calendar year.

CHOOSING A SAMPLE

We mailed surveys to Minnesota's 87 county attorneys and to a stratified, random sample of 533 cities around the state. We stratified the cities in three ways. The first stratum included those relatively few cities with somewhat unique prosecution arrangements. In this stratum we included 17 cities that we knew had their own in-house prosecutors, special joint contracts, or joint powers agreements for prosecution services.

We grouped the remaining cities first by each of the 10 judicial districts. This helped us ensure that the sample was representative of the state's geographic regions and the judicial districts. Then, within each judicial district we divided cities by size into one of three groups. Large cities were the 149 cities with populations of at least 3,000; medium cities were the 162 cities with between 1,000 and 2,999 population; and small cities were the 527 cities with populations of less than 1,000. This ensured that the sample contained a representative mix of all sizes of cities. Within these strata we randomly selected about 60 percent of all cities.

CONDUCTING THE SURVEY

On October 22, 1996 we mailed the survey instrument and a cover letter to the county attorneys and cities in our sample, asking them to return the

survey at the end of two weeks. About a week later, we mailed postcard reminders to each of the survey recipients except those from whom we had already received responses. Three weeks after sending the original survey, we sent follow-up letters to prosecutors from whom we had not received a response. We included in this mailing another copy of the survey instrument and asked for a response within a week.

SURVEY RESPONSE RATES

We received responses from 67 of the 87 county attorneys in time for analysis, for a response rate of 77 percent. Results from key questions in the survey of county attorneys have a margin of error ranging between plus or minus 3 and 6 percentage points due to sampling error.

Of the 533 cities we surveyed, 362 returned surveys in time for analysis for a response rate of 68 percent. Results from key questions in the survey of cities have a margin of error ranging between plus or minus 4 and 7 percentage points due to sampling error.

Because respondents chose not to answer all questions in the surveys, the margin of error may be larger for some responses where the number of respondents is relatively low. In addition, the practical difficulties of conducting any opinion survey may introduce other sources of error into the results of either of our surveys.

RESULTS

In the remaining pages of this appendix we present the instruments used to survey county and city prosecutors and the results from each of those groups' responses.

Office of the Legislative Auditor
Minnesota's System of Misdemeanor Prosecution: A Best Practices Review
SURVEY OF COUNTY ATTORNEYS

Thank you for answering this survey on the prosecution of gross misdemeanors, misdemeanors, petty misdemeanors, and ordinance or rule violations. The questions on this survey pertain only to the 1995 calendar year. We recognize that some questions may refer to data that you do not routinely collect but encourage you to provide us with estimated answers in those instances where you may not have precise data. Direct questions about the survey to Jody Hauer at 612/296-4708.

*Please return the completed survey in the enclosed postage-paid envelope by **November 6, 1996.***

1. Respondent's Name _____
2. Position _____
3. County _____
4. Phone Number _____

ORGANIZATIONAL STRUCTURE AND WORKLOAD

5. Is the county attorney's office responsible for non-felony prosecution (gross misdemeanors, misdemeanors, petty misdemeanors, or local ordinance/rule violations) in *all* the cities within the county?

Number Percent (n = 67)

- | | | |
|----|-------|---|
| 9 | 13.4% | a. Yes (<i>If yes, go to Question 8.</i>) |
| 58 | 86.6 | b. No |

6. For how many of the cities in your county did you provide non-felony prosecution services in 1995?

Median

- | | |
|-----|---|
| 2.0 | a. Cities receiving prosecution services by county attorney's office (n = 53) |
| 8.0 | b. Total number of cities in county (n = 55) |

7. With how many of the cities for which you prosecuted did you specifically have written contracts to prosecute non-felony offenses in 1995?

Mean Median (n = 50)

- | | | |
|-----|---|-----------------------|
| 0.9 | 0 | Cities with contracts |
|-----|---|-----------------------|

8. Is the county attorney's position in your county a full-time or part-time one?

Number Percent (n = 67)

- | | | |
|----|-------|-----------------------|
| 44 | 65.7% | a. Full-time position |
| 23 | 34.3 | b. Part-time position |

9. What do you estimate was the total number of non-felony cases (gross misdemeanors, misdemeanors, petty misdemeanors, or local ordinance/rule violations) processed by your office in 1995? (*Include cases the county attorney's office declined to prosecute as well as written complaints and other cases charged via the charges or citations. Please include all such cases you worked on in 1995 even though they may have been initiated earlier.*)

Median Total (n = 59)

- | | | |
|-------|----------|----------------------------------|
| 500.0 | 49,327.0 | Total number of non-felony cases |
|-------|----------|----------------------------------|

10. Of the total number of non-felony cases in 1995, what percent do you estimate were gross misdemeanors and what percent were other offenses? (Please include all cases on which the county attorney's office worked in 1995.)

Median

- 20% a. Gross misdemeanor cases (n = 61)
80 b. Other cases (misdemeanors, petty misdemeanors, or local ordinance/rule violations) (n = 61)

11. Of the total number of non-felony cases in 1995, what percent do you estimate involved victims or were crimes against a person?

Median

- 20% a. Cases involving victims or crimes against a person (n = 54)
80 b. Other cases (n = 53)

12. Of the non-felony cases in 1995, what do you estimate was the total number disposed?

Median Total (n = 46)

- 380 33,427.0 a. Total number of non-felony cases disposed in 1995
50 7,333.0 b. Total number of non-felony cases that remained pending at the end of 1995

13. Of the total number of non-felony cases disposed in 1995, what percent do you estimate were gross misdemeanors or other misdemeanors?

Median

- 20% a. Gross misdemeanor cases (n = 50)
80 b. Other cases (misdemeanors, petty misdemeanors, or local ordinance/rule violations) (n = 50)

14. Of the total number of non-felony cases disposed in 1995, what percent do you estimate were disposed at the following steps in the judicial process? (If your data do not allow you to estimate gross misdemeanor dispositions separate from others, estimate dispositions for all non-felony offenses in column 3.)

	(1) Gross Misdemeanor Cases (n = 30)		(2) Misdemeanor, Petty Misdemeanor, Ordinance Violations (n = 29)		(3) Total Non-felony Cases (Complete only if you cannot separate gross misdemeanor data from other offenses.) (n = 17)	
	<u>Mean</u>	<u>Median</u>	<u>Mean</u>	<u>Median</u>	<u>Mean</u>	<u>Median</u>
a. Declined to prosecute	4.8%	1.0%	2.5%	1.0%	6.4%	5.0%
b. Disposed through pre-trial diversion	1.2	0	2.4	1.0	4.0	1.0
c. Disposed at arraignment or first appearance	9.7	1.0	37.2	30.0	23.2	15.0
d. Disposed at pre-trial conference	39.6	40.0	25.6	24.1	33.1	27.0
e. Disposed without trial by day of scheduled trial	36.9	32.5	19.7	10.0	24.3	19.0
f. Disposed by bench trial verdict	3.9	1.5	10.8	9.0	5.8	5.0
g. Disposed by jury trial verdict	3.6	3.5	2.4	2.0	3.3	3.0

15. Of the non-felony cases your office prosecuted in 1995, what percent of cases disposed of prior to trial, and what percent of cases that went to trial, would you estimate resulted in convictions to either full or reduced charges?

Median

- 95.0% a. Convictions in cases disposed prior to trial (n = 52)
90.0 b. Convictions in cases that went to trial (n = 53)

PROSECUTION PRACTICES

16. Had your office developed written guidelines -- based on seriousness of the offense, criminal history of the defendant, legal-evidentiary strength of the case, or other similar measures -- to help decide which cases were accepted for prosecution and which were more likely to be disposed of by trial, plea agreement, or alternative measure?

Number	Percent	(n = 64)
31	48.4%	a. Yes
31	48.4	b. No (<i>If no, please go to Question 19.</i>)
2	3.1	c. Guidelines were under development (<i>If under development, please go to Question 19.</i>)

17. If you had developed guidelines, how helpful were they in setting priorities among cases that led to what you consider reasonable dispositions in 1995?

Number	Percent	(n = 29)
7	24.1%	a. Very helpful
16	55.2	b. Moderately helpful
6	20.7	c. Neither helpful nor unhelpful
0	0.0	d. Moderately unhelpful
0	0.0	e. Very unhelpful

18. Comments:

19. Did your office use a pre-trial diversion program or other mechanism, such as continuance for dismissal, in 1995 for diverting certain cases from prosecution? (*This includes both pre- and post-charge diversions.*)

Number	Percent	(n = 66)
46	69.7%	a. Yes
17	25.4	b. No (<i>If no, go to Question 26.</i>)
3	4.5	c. Pre-trial diversion program under development (<i>If under development, go to Question 26.</i>)

20. Was a specific diversion program available for certain offenses, such as shoplifting?

Number	Percent	(n = 46)
18	39.1%	a. Yes (<i>Please specify.</i>)
28	60.9	b. No

21. How many non-felony cases would you estimate your office diverted from prosecution in 1995?

Median	Total	(n = 37)
10.0	2,087	Number of pre-trial diversion cases

22. How many of the cases diverted in 1995 do you estimate were later disposed of either by dismissing charges or not charging the case?

Median	Total	(n = 34)
10.0	1,773	Number of diversions resulting in dismissal or not charging

23. On the average, how many days do you estimate elapsed between when the case came to your attention and pre-trial diversion for all such cases in 1995?

<u>Number</u>	<u>Percent</u>		<u>Number</u>	<u>Percent</u>	(n = 33)
2	6.1%	a. 1 to 6 days	11	33.3%	d. 31 to 60 days
4	12.1	b. 7 to 14 days	2	6.1	e. 61 to 90 days
14	42.4	c. 15 to 30 days	0	0.0	f. More than 90 days

24. From your standpoint as a prosecutor, how satisfied were you with the pre-trial diversion program or other mechanisms for diverting certain cases from prosecution in 1995?

<u>Number</u>	<u>Percent</u>	(n = 42)
9	21.4%	a. Very satisfied
19	45.2	b. Moderately satisfied
8	19.0	c. Neither satisfied nor dissatisfied
5	11.9	d. Moderately dissatisfied
1	2.4	e. Very dissatisfied

25. Comments:

26. If a victim and/or witness assistance program was available within your office's jurisdiction in 1995, who was primarily responsible for financing this program?

<u>Number</u>	<u>Percent</u>	(n = 61)
15	24.6%	a. Victim/witness assistance program was not available <i>(If program was unavailable, go to Question 32.)</i> →
19	31.1	b. County attorney's office
0	0.0	c. Another county attorney's office from a nearby county
1	1.6	d. Sheriff department
0	0.0	e. City attorney's office
9	14.8	f. Private organization
17	27.9	g. Multiple organizations or other <i>(Please specify.)</i> _____

NOTE: The numbers reported in Q27 to Q30 are only for those counties indicating availability of a victim/witness program.

27. Which of the following services did the victim and/or witness assistance program provide? (Check all that apply.)

<u>Number</u>	<u>Percent</u>	(n = 46)
40	87.0%	a. Notification of upcoming court dates
37	80.4	b. Information on results of judicial proceedings (e.g., case dismissals, pre-trial dispositions, trial results)
40	87.0	c. Assistance in preparing victim impact statements
26	56.5	d. Transportation to court
18	39.1	e. Child care or escort services during scheduled court appearances
26	56.5	f. Assistance in applying for witness fees
33	71.7	g. Assistance with return of property or seeking victim compensation
33	71.7	h. Provision of legal information on possible civil and/or criminal remedies
36	78.3	i. Referrals for emergency shelter, food, transportation, or counseling
5	10.9	j. Other <i>(Please describe.)</i> _____

28. In conjunction with the victim and witness assistance program, which of the following did your office offer in 1995?
(Check all that apply.)

Number Percent (n = 46)

- | | | |
|----|-------|---|
| 25 | 54.3% | a. Training on victim/witness issues and programs for law enforcement personnel or other professionals |
| 19 | 41.3 | b. Community education on victimization, its prevention, or availability of victim/witness services |
| 26 | 56.5 | c. Opportunities for staff or volunteers to participate in victim/witness-related training |
| 29 | 63.0 | d. Systematic interaction with other professionals to improve responsiveness to need of victims and witnesses |
| 4 | 8.7 | e. Other (Please describe.) _____ |
| 8 | 17.4 | f. None of the above |

29. Of the victims and witnesses notified of court appearances via the victim/witness assistance program, or where notification was attempted, what percent do you estimate actually appeared in 1995?

Number Percent (n = 42)

- | | | |
|----|-------|---|
| 15 | 35.7% | a. 0 to 25% |
| 10 | 23.8 | b. 26 to 50% |
| 3 | 7.1 | c. 51 to 75% |
| 9 | 21.4 | d. 76 to 100% |
| 5 | 11.9 | e. The assistance program did not provide such notification |

30. From your standpoint as a prosecutor, how satisfied were you with the victim/witness assistance program?

Number Percent (n = 46)

- | | | |
|----|-------|---------------------------------------|
| 21 | 45.7% | a. Very satisfied |
| 14 | 30.4 | b. Moderately satisfied |
| 8 | 17.4 | c. Neither satisfied nor dissatisfied |
| 3 | 6.5 | d. Moderately dissatisfied |
| 0 | 0.0 | e. Very dissatisfied |

31. Comments:

32. Which of the following services did your office offer or use in 1995? (Check all that apply.)

Number Percent (n = 67)

- | | | |
|----|-------|---|
| 57 | 85.1% | a. Training (e.g., classes, discussions, seminars) and advice to local law enforcement agencies related to misdemeanors |
| 32 | 47.8 | b. A liaison with local law enforcement to communicate on the status of cases and court appearances (either electronically or via personal contact) |
| 9 | 13.4 | c. Sheriff or police report forms that also serve as complaints |
| 59 | 88.1 | d. Formal or informal way of allowing law enforcement input in disposition of cases |
| 40 | 59.7 | e. Information and advice (e.g., speeches, presentations, meetings) to local elected officials or professional organizations |
| 45 | 67.2 | f. Information and advice to local citizens and civic groups |
| 10 | 14.9 | g. Uniform arrest reports from all law enforcement agencies in your county |
| 1 | 1.5 | h. Other (Please describe.) _____ |
| 0 | 0.0 | i. None of the above |

33. Did your office have a computerized case management information system in 1995?Number Percent (n = 65)

- | | | |
|----|-------|---|
| 18 | 27.7% | a. Yes |
| 41 | 63.1 | b. No (<i>If no, go to Question 35.</i>) |
| 6 | 9.2 | c. Information system was under development (<i>If under development, go to Question 35.</i>) |

NOTE: The numbers reported in Q34 are only for those counties that responded "yes" to Q33.

34. Which of the following assistance did your information system provide? (Check all that apply.)Number Percent (n = 18)

- | | | |
|----|-------|--|
| 11 | 61.1% | a. On-line queries or user inquiry support |
| 15 | 83.3 | b. Case tracking |
| 8 | 44.4 | c. Case-aging and status reports |
| 9 | 50.0 | d. Disposition reports |
| 12 | 66.7 | e. Victim and witness assistance information |
| 0 | 0.0 | f. Other (<i>Please describe.</i>) _____ |
| 0 | 0.0 | g. None of the above |

35. Check all agencies with whom your office had computer access to the agency's computerized information system in 1995.Number Percent (n = 67)

- | | | |
|----|-------|--|
| 7 | 10.4% | a. Police or sheriff |
| 1 | 1.5 | b. Public defender |
| 11 | 16.4 | c. Court administrator |
| 7 | 10.4 | d. District court administrator |
| 2 | 3.0 | e. State court administration |
| 5 | 7.5 | f. Other (<i>Please describe.</i>) _____ |
| 43 | 64.1 | g. None of the above |

36. To which of the following items did you have access through your office in 1995? (Check all that apply.)Number Percent (n = 67)

- | | | |
|----|-------|---|
| 29 | 43.2% | a. Legal research databases |
| 49 | 73.1 | b. Adequate law libraries |
| 2 | 3.0 | c. Video hookups to remote locations, such as police stations |
| 18 | 26.9 | d. Teleconferencing |
| 1 | 1.5 | e. Other technological advances (<i>Please describe.</i>) _____ |
| 12 | 17.9 | f. None of the above |

37. Check the types of training or assistance available for lawyer training in 1995.Number Percent (n = 67)

- | | | |
|----|-------|--|
| 10 | 14.9% | a. In-house classes or seminars |
| 45 | 67.2 | b. Seminars provided by others |
| 55 | 82.1 | c. Reimbursements for continuing legal education (CLE) |
| 25 | 37.3 | d. Requirements for specific CLE courses to meet identified training needs |
| 3 | 4.5 | e. Other (<i>Please describe.</i>) _____ |
| 0 | 0.0 | f. None of the above |

38. We are interested in knowing about methods you may have used to measure your office's performance. Did you assess your office's performance in 1995 by periodically measuring how well the office met pre-defined goals and objectives?

Number Percent (n = 64)

2	3.1%	a. Yes, we measured performance following a formal process of setting goals and objectives for non-felony prosecution
31	48.4	b. Yes, but it was done informally without extensive documentation
27	42.2	c. No
4	6.3	d. Performance measurement system was under development

PERSONNEL AND RESOURCES

39. How many full-time equivalent (FTE) attorneys involved with non-felony prosecution worked for your office in 1995? (Do not include attorneys who worked exclusively on other matters, such as civil law. For example if one attorney worked half time on misdemeanor prosecutions in 1995 please report ".5 FTE.")

Median

1.0 FTE attorneys (n = 63)

40. In which of the following prosecution duties was your office involved during 1995? (Check all that apply.)

Number Percent (n = 67)

65	97.0%	a. Reviewing and screening charges
65	97.0	b. Drafting complaints
27	40.3	c. Investigating cases
65	97.0	d. Preparing cases
65	97.0	e. Appearing in court
65	97.0	f. Administering pre-trial procedures, including negotiating pleas
63	94.0	g. Administering trial procedures, including jury selection and sentence recommendation
34	50.7	h. Ordinance re-codification efforts
61	91.0	i. Providing consultation and advice to elected officials or city boards or commissions
63	94.0	j. Training and providing advice to law enforcement personnel
51	76.1	k. Speaking engagements with civic organizations or the public
18	26.9	l. Working on proposed legislation or appearing before legislative committees
26	38.8	m. Assisting in development of improved procedures for judicial process
26	38.8	n. Lawyer training
36	53.7	o. Other administrative duties
8	11.9	p. Other prosecution duties (Please specify.) _____

41. What do you estimate was the total number of attorney hours devoted to non-felony prosecution in 1995? (Include all work related to the activities identified in Question 40.)

Median

1,632.0 Total attorney-hours devoted to non-felony prosecution (n = 51)

42. If you have information on attorney time devoted to non-felony prosecution, how would you estimate the time was divided between gross misdemeanors and other offenses?

Median

30.0	a. Gross misdemeanor prosecution (n = 39)
70.0	b. Other prosecution (misdemeanors, petty misdemeanors, or ordinance/rule violations) (n = 39)

Number Percent

13	19.4%	c. Not applicable (n = 67)
----	-------	----------------------------

- 43. How many hours on average do you estimate prosecutors spent per case for the typical case disposed of at the following steps in the judicial process?** (Average attorney hours per case should represent the bulk [approximately 90 percent] of cases disposed, excluding cases that were extraordinarily time consuming.)

Average attorney hours per case spent on:

Median

- | | |
|------|--|
| 0.5 | a. Reviewing cases that were not prosecuted (n = 36) |
| 1.0 | b. Cases diverted pre- or post-charge (n = 26) |
| 1.1 | c. Cases disposed at arraignment or first appearance (n = 34) |
| 2.0 | d. Cases disposed at pre-trial conference (n = 37) |
| 4.0 | e. Cases disposed without trial on day of scheduled trial (n = 35) |
| 4.5 | f. Cases disposed by bench trial (n = 36) |
| 15.0 | g. Cases disposed by jury trial (n = 35) |

- 44. How many other FTE personnel involved with non-felony prosecution worked for your office in 1995? How would you estimate their time was divided between gross misdemeanors and others?**

	(1) Number FTE Personnel (n = 56)		(2) Percent Time on Gross Misdemeanors		(3) Percent Time on Misdemeanors, Petty Misdemeanors, Ordinance Violations	
	<u>Mean</u>	<u>Median</u>	<u>Number</u>	<u>Median</u>	<u>Number</u>	<u>Median</u>
a. FTE secretary or administrative assistant	0.8	0.78	45	35.0%	45	65.0%
b. FTE paralegal or legal assistant	0.1	0.0	12	30.0	12	70.0
c. FTE law student intern	0.1	0.0	4	29.0	4	71.0
d. FTE investigators	0.0	0.0	1	50.0	1	50.0
e. FTE other support staff (e.g., file room clerk)	0.0	0.0	5	50.0	5	50.0
f. FTE TOTAL	1.0	1.0	47	34.6	46	65.7
g. Not applicable	(n = 0)		0		1	

- 45. What were your total office operating expenditures in 1995?**

Median

\$228,000 Total operating expenditures (n = 58)

- 46. For each of the following items, circle 1 if it is included in your expenditure estimate reported in Question 45, circle 2 if it is not included, or circle 3 if it is not applicable.**

	Included in Estimate		Excluded from Estimate		Not Applicable	
	<u>Number</u>	<u>Percent</u>	<u>Number</u>	<u>Percent</u>	<u>Number</u>	<u>Percent</u>
a. Salaries or wages (compensation for lawyers and other personnel) (n = 58)	52	89.7%	5	8.6%	1	1.7%
b. Benefits (e.g., medical insurance, workers' compensation, leave, pension contributions, disability insurance) (n = 58)	47	81.0	8	13.8	3	5.2
c. Supplies (e.g., office supplies, books, computer software) (n = 58)	54	93.1	3	5.2	1	1.7
d. Contract or consultant services (expenses for services provided for you by personnel outside your office) (n = 57)	44	77.2	6	10.5	7	12.3
e. Travel (n = 58)	55	94.8	2	3.4	1	1.7

	Included in Estimate		Excluded from Estimate		Not Applicable	
	Number	Percent	Number	Percent	Number	Percent
f. Training (n = 58)	54	93.1	3	5.2	1	1.7
g. Insurance premiums (n = 56)	40	71.4	8	14.3	8	14.3
h. Office building use and maintenance (e.g., space rental, utilities) (n = 53)	25	47.2	17	32.1	11	20.8
i. Other current expenditures (operating costs, such as licensing, that exclude capital expenses for furniture, office equipment, computers, land, or other capital purchases) (n = 57)	51	89.5	5	8.8	1	1.8

- 47. What do you estimate was the percent of your total 1995 operating expenditures devoted to non-felony prosecution?**
(If the amount you reported in Question 45 represents only expenditures on non-felony prosecution, report 100 percent. If, on the other hand, your total office expenditure represents other work, such as civil law, please estimate what share of the total relates to non-felony prosecution.)

Median

26.0%

Percent of total operating expenditures devoted to non-felony prosecution (n = 53)

ADDITIONAL INFORMATION

- 48. What are the most significant issues facing you as a county attorney?**
- 49. What innovations or effective methods do you employ that you believe improve your jurisdiction's misdemeanor prosecution?**
- 50. Are you aware of other jurisdictions that employ innovative or effective misdemeanor prosecution methods? If so, please describe.**
- 51. Do you have any additional comments?**

Thank you for answering this survey!

The Legislative Auditor's Office will use the survey information to generate a report on best practices in the arrangement of prosecution services within Minnesota.

Send this completed form in the postage-paid envelope by November 6 to:

Legislative Auditor's Office
658 Cedar Street, St. Paul, MN 55155
or
FAX to 612/296-4712

Office of the Legislative Auditor

Minnesota's System of Misdemeanor Prosecution: A Best Practices Review

SURVEY OF CITY ATTORNEYS

Thank you for answering this survey on the prosecution of gross misdemeanors, misdemeanors, petty misdemeanors, and ordinance or rule violations. The questions on this survey pertain only to the 1995 calendar year. Please transfer this to the appropriate prosecutor if you did not prosecute non-felony offenses for this city. We recognize that some questions may refer to data that you do not routinely collect but encourage you to provide us with estimated answers in those instances where you may not have precise data.

This questionnaire pertains only to the city listed on the mailing label below. Please answer the questions only as they apply to this city, even if you prosecuted misdemeanors for other cities as well. If you receive surveys for multiple cities, you may avoid entering repetitive answers by designating one survey as the "master" and completing the others only for information unique to a particular city, such as number of non-felony cases processed. We'll use your "master" survey to complete the remaining questions for other cities. Direct questions about the survey to Jody Hauer at 612/296-4708.

*Please return the completed survey in the enclosed postage-paid envelope by **November 6, 1996**.*

1. **Respondent's Name** _____
2. **Position** _____
3. **City** _____
4. **Phone Number** _____

ORGANIZATIONAL STRUCTURE AND WORKLOAD

5. **Which of the following arrangements describes how prosecution services were provided in this city during 1995?**
(If you prosecuted for more than one city, you will be asked general questions about the other cities at the end of this questionnaire.)

Prosecution services in this city were provided by:

Number Percent (n = 362)

- | | | |
|-----|------|---|
| 10 | 2.8% | a. Attorneys who are employees of this city (in-house prosecutors) |
| 164 | 45.3 | b. A private law firm on contract with the city |
| 4 | 1.1 | c. A contract with another city that has its own in-house prosecutors |
| 7 | 1.9 | d. A joint powers agreement with multiple cities |
| 62 | 17.1 | e. The county attorney's office on contract with the city |
| 112 | 30.9 | f. The county attorney's office but without a formal written contract |
| 3 | 0.8 | g. Other (Please describe.) _____ |

**If the county prosecutes
misdemeanors for the city,
STOP here. Thank you for
completing the survey.**

NOTE: All following responses reflect only those where Q5 = a, b, c, or d.

6. **For which types of offenses did your office provide prosecution services in calendar year 1995 for this city?** (Check all that apply.)

Number Percent (n = 185)

- | | | |
|----|------|---------------------------------|
| 13 | 7.0% | a. Ordinance or rule violations |
| 16 | 8.6 | b. Petty misdemeanors |
| 19 | 10.3 | c. Misdemeanors |

6. continued

<u>Number</u>	<u>Percent</u>	(n = 185)
2	1.1%	d. Gross misdemeanors
146	78.9	e. All of the above (all non-felony offenses)
0	0.0	f. None of the above <i>(Please transfer this to the appropriate prosecutor.)</i>

7. What do you estimate was the total number of non-felony cases (gross misdemeanors, misdemeanors, petty misdemeanors, local ordinance/rule violations) processed by your office in 1995 for this city? *(Include cases you declined to prosecute as well as written complaints and other cases charged via tab charges or citations. Please include all such cases you worked on in 1995 even though they may have been initiated earlier.)*

<u>Total</u>	<u>Median</u>	(n = 146)
156,025	89.5	Total number of non-felony cases

8. Of the total number of non-felony cases in this city in 1995, what percent do you estimate were gross misdemeanors and what percent were other misdemeanor offenses? *(Please include all cases on which you worked in 1995 for this city.)*

<u>Median</u>	
10.0%	a. Gross misdemeanor cases (n = 149)
90.0	b. Other offenses (misdemeanors, petty misdemeanors, local ordinance/rule violations) (n = 149)

9. Of the total number of non-felony cases in this city in 1995, what percent do you estimate involved victims or were crimes against a person?

<u>Median</u>	
18.0%	a. Cases involving victims or crimes against a person (n = 143)
81.0	b. Other cases (n = 140)

10. Of the non-felony cases in this city in 1995, what do you estimate was the total number disposed?

<u>Total</u>	<u>Median</u>	
123,616	85.5%	a. Total number of non-felony cases disposed in 1995 (n = 128)
22,768	10.0	b. Total number of non-felony cases that remained pending at the end of 1995 (n = 121)

11. Of the total number of non-felony cases disposed in 1995 in this city, what percent do you estimate were gross misdemeanors and what percent other offenses?

<u>Median</u>	
10.0%	a. Gross misdemeanor cases (n = 143)
90.0	b. Other offenses (misdemeanors, petty misdemeanors, local ordinance/rule violations) (n = 143)

12. Of the total number of non-felony cases disposed in 1995 for this city, what percent do you estimate were disposed at the following steps in the judicial process? *(If your data do not allow you to estimate gross misdemeanor dispositions separate from others, estimate dispositions for all non-felony offenses in column 3.)*

	(1) Gross Misdemeanor Cases (n = 73)		(2) Misdemeanor, Petty Misdemeanor, Ordinance Violations (n = 95)		(3) Total Non-felony Cases (Complete only if you cannot separate gross misdemeanor data from other offenses) (n = 42)	
	<u>Mean</u>	<u>Median</u>	<u>Mean</u>	<u>Median</u>	<u>Mean</u>	<u>Median</u>
a. Declined to prosecute	2.9%	0.0%	3.7%	2.7%	4.8%	2.3%
b. Disposed through pre-trial diversion	1.1	0.0	6.1	1.0	3.8	1.0
c. Disposed at arraignment or first appearance	11.9	2.0	27.9	30.0	28.2	23.0
d. Disposed at pre-trial conference	49.8	50.0	36.9	30.0	39.2	32.0

	<u>Mean</u>	<u>Median</u>	<u>Mean</u>	<u>Median</u>	<u>Mean</u>	<u>Median</u>
e. Disposed without trial by day of scheduled trial	28.7%	20.0%	14.9%	10.0%	12.4%	10.0%
f. Disposed by bench trial verdict	2.2	0.0	8.8	5.0	9.0	5.0
g. Disposed by jury trial verdict	3.3	0.0	1.8	1.0	2.7	1.0

13. Of the non-felony cases you prosecuted for this city in 1995, what percent of cases disposed prior to trial, and what percent of cases that went to trial, would you estimate resulted in convictions to either full or reduced charges?

Median

- 95.0% a. Convictions in cases disposed prior to trial (n = 141)
 95.0 b. Convictions in cases that went to trial (bench or jury trial) (n = 120)

PROSECUTION PRACTICES

14. Had your office developed written guidelines -- based on seriousness of the offense, criminal history of the defendant, legal-evidentiary strength of the case, or other similar measures -- to help decide which cases were accepted for prosecution and which were more likely to be disposed of by trial, plea agreement, or alternative measure?

<u>Number</u>	<u>Percent</u>	(n = 157)
36	22.9%	a. Yes
117	74.5	b. No (If no, please go to Question 17.)
4	2.5	c. Guidelines were under development (If under development, please go to Question 17.)

15. If you had developed guidelines, how helpful were they in setting priorities among cases that led to what you consider reasonable dispositions in 1995?

<u>Number</u>	<u>Percent</u>	(n = 34)
19	55.9%	a. Very helpful
11	32.4	b. Moderately helpful
3	8.8	c. Neither helpful nor unhelpful
0	0.0	d. Moderately unhelpful
1	2.9	e. Very unhelpful

16. Comments:

17. Did your office use a pre-trial diversion program or other mechanism, such as continuance for dismissal, in 1995 for diverting certain cases from prosecution in this city? (This includes both pre- and post-charge diversions.)

<u>Number</u>	<u>Percent</u>	(n = 156)
125	80.1%	a. Yes
31	19.9	b. No (If no, go to Question 24.)
0	0.0	c. Pre-trial diversion program was under development. (If under development, go to Question 24.)

18. Was a specific diversion program available for certain offenses, such as shoplifting?

<u>Number</u>	<u>Percent</u>	(n = 125)
50	40.0%	a. Yes (Please specify.)
75	60.0	b. No

19. How many non-felony cases would you estimate your office diverted from prosecution in 1995 in this city?

<u>Total</u>	<u>Median</u>	(n = 101)
9,819	8.0	Number of pre-trial diversion cases

20. How many of the cases diverted in 1995 do you estimate were later disposed of either by dismissing charges or not charging the case?

<u>Total</u>	<u>Median</u>	(n = 95)
8,446	5.0	Number of pre-trial diversions resulting in dismissal or not charging


21. On the average, how many days do you estimate elapsed between when the case came to your attention and pre-trial diversion for all such cases in 1995?

<u>Number</u>	<u>Percent</u>	(n = 106)
7	6.6%	a. 1 to 6 days
7	6.6	b. 7 to 14 days
47	44.3	c. 15 to 30 days
41	38.7	d. 31 to 60 days
1	0.9	e. 61 to 90 days
3	2.8	f. More than 90 days

22. From your standpoint as a prosecutor, how satisfied were you with the pre-trial diversion program or other mechanism for diverting certain cases from prosecution in this city in 1995?

<u>Number</u>	<u>Percent</u>	(n = 118)
40	33.9%	a. Very satisfied
44	37.3	b. Moderately satisfied
20	16.9	c. Neither satisfied nor dissatisfied
10	8.5	d. Moderately dissatisfied
4	3.4	e. Very dissatisfied

23. Comments:**24. If a victim and/or witness assistance program was available within this city in 1995, who was primarily responsible for financing this program?**

<u>Number</u>	<u>Percent</u>	(n = 141)
62	44.0%	a. Victim/witness assistance program was not available <i>(If program was unavailable, go to Question 30.)</i> 
13	9.2	b. County attorney's office
1	0.7	c. Another county attorney's office from a nearby county
2	1.4	d. Sheriff department
14	9.9	e. The city
26	18.4	f. Private organization
23	16.3	g. Multiple organizations or other <i>(Please specify.)</i> _____

NOTE: The numbers and percentages in Q25-Q28 reflect only respondents who indicated that a victim/witness program was available.

25. Which of the following services did the victim and/or witness assistance program provide? (Check all that apply.)

<u>Number</u>	<u>Percent</u>	(n = 82)
50	61.0%	a. Notification of upcoming court dates
48	58.5	b. Information on results of judicial proceedings (e.g., case dismissals, pre-trial dispositions, trial results)
43	59.8	c. Assistance in preparing victim impact statements
29	35.4	d. Transportation to court

<u>Number</u>	<u>Percent</u>	(n = 82)
23	28.0%	e. Child care or escort services during scheduled court appearances
33	40.2	f. Assistance in applying for witness fees
42	51.2	g. Assistance with return of property or seeking victim compensation
40	48.8	h. Provision of legal information on possible civil and/or criminal remedies
53	64.6	i. Referrals for emergency shelter, food, transportation, or counseling
19	23.2	j. Other (<i>Please describe.</i>) _____

26. In conjunction with the victim and witness assistance program in this city, which of the following did your office offer in 1995? (Check all that apply.)

<u>Number</u>	<u>Percent</u>	(n = 82)
25	30.5%	a. Training on victim/witness issues and programs for law enforcement personnel or other professionals
10	12.2	b. Community education on victimization, its prevention, or availability of victim/witness services
14	17.1	c. Opportunities for staff or volunteers to participate in victim/witness-related training
27	32.9	d. Systematic interaction with other professionals to improve responsiveness to need of victims and witnesses
6	7.3	e. Other (<i>Please describe.</i>) _____
41	50.0	f. None of the above

27. Of the victims and witnesses notified of court appearances via the victim/witness assistance program, or where notification was attempted, what percent do you estimate actually appeared in 1995?

<u>Number</u>	<u>Percent</u>	(n = 82)
20	24.4%	a. 0 to 25%
3	3.7	b. 26 to 50%
12	14.6	c. 51 to 75%
22	26.8	d. 76 to 100%
14	17.1	e. The assistance program did not provide such notification

28. From your standpoint as a prosecutor, how satisfied were you with the victim/witness assistance program?

<u>Number</u>	<u>Percent</u>	(n = 82)
18	22.0%	a. Very satisfied
24	29.3	b. Moderately satisfied
23	28.0	c. Neither satisfied nor dissatisfied
5	6.1	d. Moderately dissatisfied
0	0.0	e. Very dissatisfied

29. Comments:

30. Which of the following services did your office offer or use in 1995? (Check all that apply.)

<u>Number</u>	<u>Percent</u>	(n = 185)
87	47.0%	a. Training (<i>e.g.</i> , classes, discussions, seminars) and advice to local law enforcement agencies related to misdemeanors
81	43.8	b. A liaison with local law enforcement to communicate on the status of cases and court appearances (either electronically or via personal contact)
40	21.6	c. Sheriff or police report forms that also serve as complaints
122	65.9	d. Formal or informal way of allowing police input in disposition of cases
58	31.4	e. Information and advice (<i>e.g.</i> , speeches, presentations, meetings) to local elected officials or professional organizations

Number Percent (n = 185)

- | | | | |
|----|-------|----|---|
| 52 | 28.1% | f. | Information and advice to local citizens and civic groups |
| 12 | 6.5 | g. | Other <i>(Please describe.)</i> _____ |
| 16 | 8.6 | h. | None of the above |

31. Did your office have a computerized case management information system in 1995?

Number Percent (n = 152)

- | | | | |
|-----|-------|----|--|
| 35 | 23.0% | a. | Yes |
| 113 | 74.3 | b. | No <i>(If no, go to Question 33.)</i> |
| 4 | 2.6 | c. | Information system was under development <i>(If under development, go to Question 33.)</i> |

32. Which of the following assistance did this information system provide? (Check all that apply.)

Number Percent (n = 185)

- | | | | |
|----|------|----|---|
| 7 | 3.8% | a. | On-line queries or user inquiry support |
| 32 | 17.3 | b. | Case tracking |
| 15 | 8.1 | c. | Case-aging and status reports |
| 19 | 10.3 | d. | Disposition reports |
| 17 | 9.2 | e. | Victim and witness assistance information |
| 4 | 2.2 | f. | Other <i>(Please describe.)</i> _____ |
| 4 | 2.2 | g. | None of the above |

33. Check all agencies with whom your office had computer access to the agency's computerized information system in 1995.

Number Percent (n = 185)

- | | | | |
|-----|-------|----|---------------------------------------|
| 29 | 15.7% | a. | Police or sheriff |
| 1 | 0.5 | b. | Public defender |
| 27 | 14.6 | c. | Court administrator |
| 19 | 10.3 | d. | District court administrator |
| 0 | 0.0 | e. | State court administration |
| 8 | 4.3 | f. | Other <i>(Please describe.)</i> _____ |
| 104 | 56.2 | g. | None of the above |

34. To which of the following items did you have access through your office in 1995? (Check all that apply.)

Number Percent (n = 185)

- | | | | |
|-----|-------|----|--|
| 78 | 42.2% | a. | Legal research databases |
| 138 | 74.6 | b. | Adequate law libraries |
| 0 | 0.0 | c. | Video hookups to remote locations, such as police stations |
| 50 | 27.0 | d. | Teleconferencing |
| 13 | 7.0 | e. | Other technological advances <i>(Please describe.)</i> _____ |
| 15 | 8.1 | f. | None of the above |

35. Check the types of training or assistance available for lawyer training in 1995.

Number Percent (n = 185)

- | | | | |
|-----|-------|----|---|
| 21 | 11.4% | a. | In-house classes or seminars |
| 101 | 54.6 | b. | Seminars provided by others |
| 71 | 38.4 | c. | Reimbursements for continuing legal education (CLE) |
| 27 | 14.6 | d. | Requirements for specific CLE courses to meet identified training needs |
| 2 | 1.1 | e. | Other <i>(Please describe.)</i> _____ |
| 23 | 12.4 | f. | None of the above |

36. We are interested in knowing about methods you may have used to measure your office's performance. Did you assess your office's performance in 1995 by periodically measuring how well the office met pre-defined goals and objectives?

<u>Number</u>	<u>Percent</u>	(n = 157)
0	0.0%	a. Yes, we measured performance following a formal process of setting goals and objectives for misdemeanor prosecution
76	48.4	b. Yes, but it was done more informally without extensive documentation
79	50.3	c. No
2	1.3	d. Performance measurement system was under development

PERSONNEL AND RESOURCES

37. How many full-time equivalent (FTE) attorneys involved with non-felony prosecution for this city worked for your office in 1995? (Do not include attorneys who worked exclusively on other matters, such as civil law. For example if one attorney worked half time on misdemeanor prosecutions in 1995 please report ".5 FTE.")

Median
0.2 FTE attorneys (n = 152)

38. In which of the following prosecution duties was your office involved for this city during 1995? (Check all that apply.)

<u>Number</u>	<u>Percent</u>	(n = 185)
146	78.9%	a. Reviewing and screening charges
149	80.5	b. Drafting complaints
55	29.7	c. Investigating cases
146	78.9	d. Preparing cases
155	83.8	e. Appearing in court
154	83.2	f. Administering pre-trial procedures, including negotiating pleas
135	73.0	g. Administering trial procedures, including jury selection and sentence recommendation
111	60.0	h. Ordinance re-codification efforts
123	66.5	i. Providing consultation and advice to elected officials or city boards or commissions
109	58.9	j. Training and providing advice to law enforcement personnel
57	30.8	k. Speaking engagements with civic organizations or the public
14	7.6	l. Working on proposed legislation or appearing before legislative committees
44	23.8	m. Assisting in development of improved procedures for judicial process
39	21.1	n. Lawyer training
42	22.7	o. Other administrative duties
12	6.5	p. Other prosecution duties (Please specify.) _____

39. What do you estimate was the total number of attorney-hours devoted to non-felony prosecution for this city in 1995? (Include all work related to the activities identified in Question 38.)

Median
177.5 Total attorney-hours devoted to non-felony prosecution (n = 134)

40. If you have information on attorney time devoted to non-felony prosecution, how do you estimate the time was divided between gross misdemeanors and other offenses?

<u>Number</u>	<u>Percent</u>	(n = 185)
20.0%	a.	Gross misdemeanor prosecution (n = 102)
80.0	b.	Other offense prosecution (misdemeanors, petty misdemeanors, ordinance/rule violations) (n = 101)
49	26.5%	c. Estimate not available

- 41. How many hours on average do you estimate prosecutors spent per case for the typical case disposed of at the following steps in the judicial process?** *(Average attorney hours per case should represent the bulk [approximately 90 percent] of cases disposed, excluding cases that were extraordinarily time consuming.)*

Average attorney hours per case spent on:

<u>Median</u>	<u>Number</u>	
0.5	94	a. Reviewing cases that were not prosecuted
1.0	73	b. Cases diverted pre- or post-charge
0.5	89	c. Cases disposed at arraignment or first appearance
1.0	105	d. Cases disposed at pre-trial conference
2.5	88	e. Cases disposed without trial on day of scheduled trial
2.5	99	f. Cases disposed by bench trial
12.0	78	g. Cases disposed by jury trial

- 42. How many other FTE personnel involved with non-felony prosecution in this city worked for your office in 1995? How would you estimate their time was divided between gross misdemeanors and other offenses?**

	(1) Number FTE Personnel (n = 102)		(2) Percent Time on Gross Misdemeanors		(3) Percent Time on Misdemeanors, Petty Misdemeanors, Ordinance Violations	
	<u>Mean</u>	<u>Median</u>	<u>Number</u>	<u>Median</u>	<u>Number</u>	<u>Median</u>
a. FTE secretary or administrative assistant	0.6	0.3	64	20.0%	64	80.0%
b. FTE paralegal or legal assistant	0.2	0.0	19	20.0	19	80.0
c. FTE law student intern	0.1	0.0	7	20.0	7	80.0
d. FTE investigators	0.0	0.0	1	10.0	1	90.0
e. FTE other support staff (e.g., file room clerk)	0.1	0.0	2	10.0	2	87.5
f. FTE TOTAL (n = 99)	1.0	0.5	72	20.0	72	80.0
g. Not applicable	(n = 34)		36		36	

- 43. What were your total office operating expenditures in calendar year 1995?** *(Attorneys on contract with this city should specify costs to the city for the 1995 contract. Do not include expenditures for other jurisdiction for which you may have provided prosecution services.)*

Median
\$10,000.00 Total operating expenditures (n = 123)

- 44. For each of the following items, circle 1 if it is included in your expenditure estimate reported in Question 43, circle 2 if it is not included, or circle 3 if it is not applicable.**

	Included in Estimate		Excluded from Estimate		Not Applicable	
	<u>Number</u>	<u>Percent</u>	<u>Number</u>	<u>Percent</u>	<u>Number</u>	<u>Percent</u>
a. Salaries or wages (compensation for lawyers and other personnel) (n = 123)	107	87.0%	8	6.5%	8	6.5%
b. Benefits (e.g., medical insurance, workers' compensation, leave, pension contributions, disability insurance) (n = 120)	61	50.8	20	16.7	39	32.5
c. Supplies (e.g., office supplies, books, computer software) (n = 121)	87	71.9	18	14.9	16	13.2

	Included in Estimate		Excluded from Estimate		Not Applicable	
	<u>Number</u>	<u>Percent</u>	<u>Number</u>	<u>Percent</u>	<u>Number</u>	<u>Percent</u>
d. Contract or consultant services (expenses for services provided for you by personnel outside your office) (n = 114)	54	47.4%	18	15.8%	42	36.8%
e. Travel (n = 120)	80	66.7	16	13.3	24	20.0
f. Training (n = 113)	63	55.8	23	20.4	27	23.9
g. Insurance premiums (n = 118)	69	58.5	21	17.8	28	23.7
h. Office building use and maintenance (e.g., space rental, utilities) (n = 121)	70	57.9	22	18.2	29	24.0
i. Other current expenditures (operating costs, such as licensing, that exclude capital expenses for furniture, office equipment, computers, land, or other capital purchases) (n = 118)	70	59.3	22	18.6	26	22.0

- 45. What do you estimate was the percent of your total 1995 operating expenditures devoted to non-felony prosecution?** *(If the amount you reported in Question 43 represents only expenditures on non-felony prosecution, report 100 percent. If, on the other hand, your total office expenditure represents other work, such as civil law, please estimate what share of the total relates to non-felony prosecution.)*

Median


100.0% % of total operating expenditures devoted to non-felony prosecution (n = 119)

OTHER JURISDICTIONS FOR WHICH YOU MAY HAVE PROVIDED PROSECUTION SERVICES

- 46. Did you prosecute misdemeanor offenses for additional jurisdictions in 1995 other than the one listed on the mailing label on page one of this survey?**

Number Percent (n = 154)

96 62.3% a. Yes

58 37.7 b. No *(If no, go to Question 50.)* 

- 47. If yes, for how many other cities did your office provide misdemeanor prosecution? How many non-felony cases do you estimate your office prosecuted for those cities in 1995?** *(Please separate cities by county if the cities for which you prosecuted were located in more than one county.)*

(1) Name of County	(2) Number of Cities For Which You Prosecuted		(3) Number of Gross Misdemeanors		(4) Number of Misdemeanors, Petty Misdemeanors, Ordinance Violations	
	<u>Number</u>	<u>Median</u>	<u>Number</u>	<u>Median</u>	<u>Number</u>	<u>Median</u>
a. (1) _____	(2) 93	2.0	(3) 59	15.0	(4) 61	130.0
b. (1) _____	(2) 14	1.5	(3) 5	5.0	(4) 4	50.0
c. (1) _____	(2) 3	1.0	(3) 0	0.0	(4) 0	0.0

48. If you prosecuted cases for other cities, what was your cumulative, total operating expenditures in 1995 for these other cities? (Attorneys on contract should specify cumulative costs to these other cities for their 1995 contract)

Median

\$21,306.50 Total operating expenditures (n = 58)

49. What percent of this total do you estimate was devoted to non-felony prosecution? (If the amount you reported in Question 48 represents only expenditures on non-felony prosecution, report 100 percent. If, on the other hand, your reported total office expenditure represents other work, such as civil law, please estimate what share of the total relates to non-felony prosecution.)

Median

100.0% % Operating expenditures devoted to non-felony prosecution (n = 66)

ADDITIONAL INFORMATION

50. What are the most significant issues facing you as a prosecutor?
51. What innovations or effective methods do you employ that you believe improve your jurisdiction's misdemeanor prosecution?
52. Are you aware of other jurisdictions that employ innovative or effective misdemeanor prosecution methods? If so, please describe.
53. Do you have any additional comments?

Thank you for answering this survey!

The Legislative Auditor's Office will use the survey information to generate a report on best practices in the arrangement of prosecution services within Minnesota.

Send this completed form in the postage-paid envelope by November 6 to:

Legislative Auditor's Office

658 Cedar Street

St. Paul, MN 55155

or

FAX to 612/296-4712

Background Research and Site Visit Methodology

APPENDIX B

To conduct this review, we collected information from a variety of sources. We began with a literature review of misdemeanor prosecution and court system practices. Then we gathered information from county and city attorneys, victim/witness assistance program staff, violations bureau staff, and district court personnel from around Minnesota, as well as from the State Court Administrator's Office. Some of the specific steps we took included holding a roundtable discussion, identifying indicators of effective and efficient prosecution offices, surveying local governments, and visiting select counties and cities. This appendix briefly describes these steps with the exception of our surveys, described in Appendix A.

ROUNDTABLE DISCUSSION

At the start of our review, we convened a meeting of attorneys, court administrators, judges, law enforcement representatives, public defenders, legislators, legislative staff, and other interested groups to discuss the key issues involved with misdemeanor prosecution in Minnesota. Thirty-four individuals from around the state participated. During the discussion, participants presented their ideas on the appropriate focus for this best practices review.

IDENTIFYING INDICATORS OF EFFECTIVENESS AND EFFICIENCY

We searched existing statutes, rules, and standards pertaining to non-felony prosecution to determine what is required and expected of prosecutors. From the many sources of information, originating within Minnesota as well as national organizations, we culled characteristics of effective and efficient prosecution offices. Then we reviewed our list of characteristics with prosecutors and others who work in the judicial system. We revised and added to the characteristics of effective and efficient prosecution

based on feedback from these practitioners. Appendix C lists the indicators we identified to measure effectiveness and efficiency in prosecution offices.

SITE VISITS

The examples of best practices in this report come from 11 Minnesota jurisdictions we either visited or called for in-depth interviews. During these interviews we collected information to describe individual practices and their advantages and disadvantages. We selected the jurisdictions based on performance measures we developed to help determine which jurisdictions were effective and efficient. (See Appendix C for information on the measures.) Because we could not visit all the counties and cities that ranked high on these measures, we chose a selection that represented different sizes and geographic locations of Minnesota local governments.

The site visits supplemented information we gathered from our surveys of prosecutors and gave us a first-hand look at specific elements of their operations, such as their victim/witness assistance programs. During these on-site interviews, prosecutors and others described practices including: how they were initiated; changes made since they were begun; problems solved; savings of time, money, personnel, or other resources; advantages and disadvantages; and transferability to other jurisdictions. From the interviews we were better able to ascertain the circumstances under which the practices were most appropriate.

We designed a standard questionnaire to use at each interview. The questionnaire included 15 open-ended questions to obtain general information on the practices as well as their specific uses. A copy of the questionnaire instrument is reprinted below.

Office of the Legislative Auditor
Misdemeanor Prosecution in Minnesota: A Best Practices Review
SITE VISIT QUESTIONNAIRE

Interviewer: _____ Date: _____

Jurisdiction: _____

Individuals Interviewed: _____ Title: _____ Phone: _____

Best Practices: _____

Information on Practices:

1. Describe the practice. What is it? How does it work?
2. When did you first implement the practice? How long have you used it?
3. Why did you initially implement the practice? What problems, if any, were you hoping to overcome?
4. Did implementing the practice solve your problem? Have you accomplished your goals? Why or why not?
5. Thinking back to when you began the practice, did you have any problems with startup?
6. Since beginning the practice, have you had any problems with it? Have you modified it in any way?
7. What were the startup costs of the practice? What are its ongoing costs?
8. Does the practice produce any type of savings — such as time, money, resources, hassle — for your jurisdiction or others involved?
9. Have you found other advantages from using the practice?
10. From your experience with the practice, what are its disadvantages or drawbacks?
11. Have you compared the practice with other options that might accomplish the same end? If yes, what comparisons have you made and what were the results?
12. Have you been able to monitor the practice to evaluate whether it is effective? If yes, in what ways have you evaluated the practice and what did you find out?
13. Do you think other counties or cities could also use the practice in their own jurisdiction? What characteristics or attributes does a jurisdiction need if it is to successfully use the practice?
14. What tips or advice would you offer to another city or county to help make this practice a success?
15. Do you have any additional thoughts or comments?

Performance Measurement

APPENDIX C

Developing goals, objectives, and performance measures allows an agency to evaluate and measure the level of service it provides. In this appendix, we briefly describe what performance measurement involves and its value. Then we list the measures of performance that we used in this review and that local governments may choose to use in their own self evaluations of prosecution.

THE VALUE OF PERFORMANCE MEASUREMENT

Measuring performance forces agencies to present clear goals and priorities for their office. The actual yardsticks an agency uses to measure its performance provide quantifiable information on its impact, efficiency, and effectiveness. Information from measuring performance allows agencies to make strategic, more informed decisions about their own procedures. Performance measurement provides a record to show what value a department is getting for the dollars it spends on prosecution.

Used over time, performance measures can help an office identify both achievements and areas needing improvement. Measures can also help an agency justify spending requests by demonstrating its real needs with actual data about caseloads, personnel, and other resources in the prosecution process. Moreover, with the information gained from measuring performance, prosecutors will be better equipped to communicate the actual results of their work to elected officials and the public.

Measuring performance yields practical information to an office about its service delivery. The indicators of performance listed in this appendix can serve as tools for local governments to track their own achievements and assess the quality of their service delivery.

We wish to neither underestimate the enormous task involved with measuring performance of governmental functions nor imply it can be done quickly. Performance measurement can be particularly difficult when the results of a program are not easily quantifiable and cannot be easily measured. In addition, the use of some measures in isolation could actually lead to unintended consequences. Care must be taken to prevent a situation where, for example, an office's sole objective is to increase as much as possible the number of cases it charges without regard for the seriousness or soundness of cases, the workload, and available resources.

To be useful, the process generally requires an initial investment of time to develop appropriate measures and ongoing resources to measure actual results over time and manage appropriate responses to them. Support from agency leadership is crucial. Without the backing of the lead prosecutor, performance measurement will likely have less meaningful impact as a tool for helping set direction for the office. At the same time, involving employees in the process is important because they are the individuals who are most directly affected by changes in practice or procedure that result from performance measurement.

DEFINING THE MISSION, GOALS, AND OBJECTIVES

Typically, the first steps in measuring performance are articulating the agency's mission and setting goals for its work. The mission defines the fundamental purpose of the agency and its programs. The mission becomes the foundation for measuring performance from which the goals, objectives, and performance indicators flow.

The next step is setting goals. Goals are broad statements that describe outcomes the agency hopes to achieve. For instance, one goal might be to complete prosecutorial duties in a timely manner. Together the mission and goals determine the priorities for a prosecutor's office. Developing the mission and goals can be a time-intensive process, not reflected in the brief attention we give it here.

Once a mission and goals are adopted, an office can set objectives to describe what results it expects to achieve and by when. Objectives are usually very specific and measurable, oriented to particular programs or efforts, and relate directly to the agency's mission and goals. They describe how an agency intends to meet its goals. As an example, in line with a goal for timely prosecution work, an objective might be to increase by two percent annually the number of cases that can be appropriately disposed of at arraignment hearings.

Goals and objectives are likely to vary with each prosecutor's office although some things, such as a goal to communicate effectively with law enforcement personnel, may be common to all prosecutors. Similarly, prosecutors may find useful some but not all of the performance measures we describe below. They may want to supplement these examples of measures with others that more closely fit their own mission, goals, and objectives.

PERFORMANCE MEASURES

We identified a number of performance indicators related to the four goals described in Chapter 2. Some of the indicators are important outputs — counts of services that the office provided or used. The number of cases in which the prosecutor was involved is an example of an output. Other indicators describe outcomes, or actual results, of the agencies' actions. An example is the percent of cases decided by judge or jury that resulted in conviction. Still other indicators measure efficiency by examining costs per unit of output. Efficiency can be measured in terms of dollars, time, or personnel. For instance, the amount of expenditures per case is one indication of efficiency.

We list numerous measures of performance below. Some measures simply indicate the existence of a certain desirable characteristic, such as use of a victim/witness assistance program, without also measuring the degree of its usefulness. These measures ought to be used in tandem with others that try to ascertain the levels of satisfaction associated with the characteristic.

Not all of the following performance indicators are easy to measure. In fact, we were unable to use all the measures listed below because of the lack of data. We include several that individual offices may find important to measure despite our observation that few prosecutors' offices currently collect the needed information. Some of the measures are keyed to a median statewide ranking that we calculated from our survey data, such as "number of cases per full-time equivalent attorney is at or above the statewide median." Individual offices using these measures would instead compare the measures to their own baseline data.

To the extent possible, we grouped the measures into categories linked to the actions we recommend in Chapter 2 for effective and efficient non-felony prosecution. We begin with measures of a general nature that do not apply specifically to any single action and then list measures for each of the recommended actions.

General

- Percent of non-felony cases disposed relative to incoming cases in a year is at or above the statewide median
- Percent of non-felony offenses disposed at arraignment or first appearance is at or above the statewide median
- Percent of prosecuted cases resulting in convictions to full or reduced charges prior to trial is at or above the statewide median
- Percent of prosecuted cases that went to trial and resulted in convictions to full or reduced charges is at or above the statewide median

- Extent of prosecutors' involvement in: ordinance recodification; providing advice to elected officials, boards, or commissions; training peace officers; speaking with the public; working on legislation or appearing before legislative committees; assisting in the development of improvements to the judicial system; and other administrative duties is at or above the statewide median
- Number of non-felony cases per full-time equivalent (FTE) attorney is at or above the statewide median
- Number of non-felony cases per other FTE personnel (including secretary, paralegal or legal assistant, law student intern, investigator, or other support staff) is at or above the statewide median
- Non-felony prosecution expenditures per case are at or below the statewide median
- Cost per case resulting in conviction to full or reduced charges is at or below the statewide median
- Average prosecutor hours per case spent reviewing cases that were not prosecuted are at or below the statewide median
- Average prosecutor hours per case spent on cases disposed at arraignment or first appearance are at or below the statewide median
- Average prosecutor hours per case spent on cases disposed at pre-trial conference are at or below the statewide median
- Average prosecutor hours per case spent on cases disposed without trial on day of scheduled trial are at or below the statewide median
- Average prosecutor hours per case spent on cases disposed by bench trial are at or below the statewide median

- Average prosecutor hours per case spent on cases disposed by jury trial are at or below the statewide median

Law Enforcement Relations

- Provision of training to law enforcement personnel
- High or moderately high satisfaction with training
- Use of liaison between prosecutor and law enforcement
- High or moderately high satisfaction with liaison
- Methods for law enforcement input in disposition of cases
- High or moderately high satisfaction with methods for law enforcement input
- Use of uniform arrest reports among all law enforcement agencies
- Reduction in cases dismissed for investigation or evidentiary reasons is at or above the statewide median
- Reduction in unnecessary court appearances is at or above the statewide median

Diverting Suitable Cases from Prosecution

- Use of a pretrial diversion program or continuance for dismissal to divert cases from prosecution
- Use of specific diversion program for certain offenses
- High or moderately high satisfaction with diversion program

- Percent of non-felony offenses disposed by pretrial diversion is at or above the statewide median
- Percent of diverted cases resulting in dismissal of charges or not charging the case is at or above the statewide median
- Average days elapsed for pretrial diversion are at or below the statewide median
- Reduction in caseload prosecuted in district court due to appropriately diverted cases is at or above the statewide median
- Collection of restitution paid to victims improves at or above the statewide median
- Recidivism among first-time offenders is at or below the statewide median
- Cost per defendant successfully diverted and not re-offending is at or below the statewide median
- Average prosecutor hours per case spent on cases diverted from prosecution are at or below the statewide median

Victim/Witness Assistance Programs

- Use of victim/witness assistance program
- High or moderately high satisfaction with victim/witness assistance program
- Provision of training, community education, and initiatives to improve responsiveness to victims and witnesses
- Percent of victims/witnesses contacted who appeared in court as scheduled is at or above the statewide median
- Cost per successful appearance in court is at or below the statewide median

Written Guidelines

- Development of written guidelines to guide charging and disposition decisions
- High or moderately high satisfaction with helpfulness of guidelines

Equipment and Facilities

- Use of computerized case-management information system
- Use of computerized-information system features such as case tracking, status reports, disposition reports, on-line queries, inter-office communication, and victim/witness information
- High or moderately high satisfaction with information system and its features
- Access to legal research databases
- High or moderately high satisfaction with research databases
- Access to adequate law libraries
- High or moderately high satisfaction with facility access and use
- Use of video links with police stations or other locations
- High or moderately high satisfaction with video links
- Use of teleconferencing
- High or moderately high satisfaction with teleconferencing

Competent and Independent Work Force

- Provision of in-house classes or seminars for all employees

- Use of seminars provided by others for employee training
- Reimbursements for ongoing training
- Requirements for specific courses to meet identified training needs
- High or moderately high satisfaction with usefulness and applicability of training
- Use of hiring practices based on merit
- High or moderately high satisfaction with hiring practices
- Provision of criteria for identifying and handling conflicts of interest
- High or moderately high satisfaction with process for handling conflicts of interest
- High or moderately high prosecutor satisfaction with public perception of office
- High or moderately high community satisfaction with crime prevention efforts

Set Goals and Objectives for Prosecution Office

- Use of formal process to measure performance by defining a mission, setting goals and objectives for non-felony prosecution, and measuring progress in meeting the objectives
- High or moderately high satisfaction with performance measurement system
- Percent of prosecutors that reach the office's internal work objectives is at or above the statewide median

Communication and Efforts to Improve Criminal Justice

- Provision of criminal justice information to local elected officials
- Provision of criminal justice information to civic groups and local citizens
- Involvement with efforts to improve criminal justice system

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APPENDIX D

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Study Input and Review

APPENDIX E

The individuals listed below assisted us in our review of non-felony prosecution in Minnesota. In addition, members of the Non-felony Enforcement Advisory Committee and staff in State Court Administration had an opportunity to review a draft version of this report. We are grateful for the help and advice of the many individuals who provided input. This office remains responsible for the content of this review, including any errors it may contain.

TECHNICAL ADVISORY PANEL

A nine-person panel of prosecutors, court administrators, and others met with us periodically to provide feedback, technical guidance, and contacts with prosecution officials as we conducted the study. The technical panel also provided comments on a draft version of this report.

Ross Arneson
Blue Earth County Attorney

Richard Arney
Washington County Attorney

Judy Besemer
Brown County Court Administrator

Kurt Fischer
Faribault City Attorney

Sandra Johnson
Assistant Bloomington City Attorney

Carol Lansing
Assistant Minneapolis City Attorney

Dan Lundstrom
Ramsey County Court Administration

Stephen M. Simon
University of Minnesota Law School

Steven M. Tallen
Tallen and Baertschi

CONSULTANT

Our consultant helped us with technical questions and provided information on the strengths and weaknesses of various practices. He also joined us on many of our visits to prosecutors' offices in counties and cities around the state.

Mitchell L. Rothman
Minnesota Citizens Council on Crime and Justice
Former Minneapolis Deputy City Attorney

LOCAL GOVERNMENT ADVISORY COUNCIL

The Local Government Advisory Council, created when the 1994 Legislature established best practices reviews, recommended the topic of misdemeanor prosecution in the spring of 1996. The council also commented on a draft version of this report.

Brandt Richardson (chair)
Dakota County Administrator

Dave Childs
Minnetonka City Manager

Chris Hagelie¹
St. Cloud City Administrator

Lynn Lander
Hermantown City Administrator

¹ Joined the Local Government Advisory Council in July 1996.

Charles Meyer

St. Louis Park City Manager

Steve Sarkozy

Roseville City Manager

James Schug

Washington County Administrator

Michele Timmons

Acting Director, Ramsey County Department of
Property Records and Revenue

Jurisdictions Reporting Computerized Case Management

APPENDIX F

Prosecutors from the following 24 counties and 39 cities reported that they had or were developing computerized case-management systems in 1995. We provide this list for prosecutors interested in speaking with colleagues who have experience with computerization of case management.

Anoka
Apple Valley
Bloomington
Blue Earth Co.
Brooklyn Park
Carlton Co.
Carver Co.
Columbia Heights
Coon Rapids
Cottonwood Co.
Crow Wing Co.
Detroit Lakes
Douglas Co.
Dundee
Dunnell
Eagan
Falcon Heights
Fergus Falls
Freeborn Co.
Gibbon
Granada

Hancock
Hennepin Co.
Hilltop
Hinckley
Hubbard Co.
Lake Park
Lauderdale
Lyon Co.
Maplewood
Mendota Heights
Minneapolis
Minnetonka
Mounds View
Mower Co.
New Hope
Newport
Nicollet Co.
Olivia
Olmsted Co.
Ottertail Co.
Pine City

Pine Co.
Pine River
Ramsey Co.
Richfield
Roseville
Saint Anthony
Saint Cloud
Saint Louis Co.
Saint Paul
Saint Stephen
Sherburne Co.
Stearns Co.
Todd Co.
Truman
Vadnais Heights
Wabasha Co.
Wadena Co.
Waite Park
Washington Co.
Wayzata
Wright Co.

Recent Program Evaluations

<i>Pollution Control Agency</i> , January 1991	91-01	<i>Performance Budgeting</i> , February 1994	94-02
<i>Nursing Homes: A Financial Review</i> , January 1991	91-02	<i>Psychopathic Personality Commitment Law</i> , February 1994	94-03
<i>Teacher Compensation</i> , January 1991	91-03	<i>Higher Education Tuition and State Grants</i> , February 1994	94-04
<i>Game and Fish Fund</i> , March 1991	91-04	<i>Motor Vehicle Deputy Registrars</i> , March 1994	94-05
<i>Greater Minnesota Corporation: Organiza- tional Structure and Accountability</i> , March 1991	91-05	<i>Minnesota Supercomputer Center</i> , June 1994	94-06
<i>State Investment Performance</i> , April 1991	91-06	<i>Sex Offender Treatment Programs</i> , July 1994	94-07
<i>Sentencing and Correctional Policy</i> , June 1991	91-07	<i>Residential Facilities for Juvenile Offenders</i> , February 1995	95-01
<i>Minnesota State High School League Update</i> , June 1991	91-08	<i>Health Care Administrative Costs</i> , February 1995	95-02
<i>University of Minnesota Physical Plant Operations: A Follow-Up Review</i> , July 1991	91-09	<i>Guardians Ad Litem</i> , February 1995	95-03
<i>Truck Safety Regulation</i> , January 1992	92-01	<i>Early Retirement Incentives</i> , March 1995	95-04
<i>State Contracting for Professional/Technical Services</i> , February 1992	92-02	<i>State Employee Training: A Best Practices Review</i> , April 1995	95-05
<i>Public Defender System</i> , February 1992	92-03	<i>Snow and Ice Control: A Best Practices Review</i> , May 1995	95-06
<i>Higher Education Administrative and Student Services Spending: Technical Colleges, Community Colleges, and State Universities</i> , March 1992	92-04	<i>Funding for Probation Services</i> , January 1996	96-01
<i>Regional Transit Planning</i> , March 1992	92-05	<i>Department of Human Rights</i> , January 1996	96-02
<i>University of Minnesota Supercomputing Services</i> , October 1992	92-06	<i>Trends in State and Local Government Spending</i> , February 1996	96-03
<i>Petrofund Reimbursement for Leaking Storage Tanks</i> , January 1993	93-01	<i>State Grant and Loan Programs for Businesses</i> , February 1996	96-04
<i>Airport Planning</i> , February 1993	93-02	<i>Post-Secondary Enrollment Options Program</i> , March 1996	96-05
<i>Higher Education Programs</i> , February 1993	93-03	<i>Tax Increment Financing</i> , March 1996	96-06
<i>Administrative Rulemaking</i> , March 1993	93-04	<i>Property Assessments: Structure and Appeals, A Best Practices Review</i> , May 1996	96-07
<i>Truck Safety Regulation</i> , Update, June 1993	93-05	<i>Recidivism of Adult Felons</i> , January 1997	97-01
<i>School District Financial Reporting</i> , Update, June 1993	93-06	<i>Nursing Home Rates in the Upper Midwest</i> , January 1997	97-02
<i>Public Defender System</i> , Update, December 1993	93-07	<i>Special Education</i> , January 1997	97-03
<i>Game and Fish Fund Special Stamps and Surcharges</i> , Update, January 1994	94-01	<i>Ethanol Programs</i> , February 1997	97-04
		<i>Statewide Systems Project</i> , February 1997	97-05
		<i>Highway Spending</i> , March 1997	97-06
		<i>Non-Felony Prosecution, A Best Practices Review</i> , April 1997	97-07

Recent Performance Report Reviews

Copies of performance report reviews, which comment on agency performance reports, are available for the following agencies: Administration, Agriculture, Children, Families & Learning, Commerce, Corrections, Economic Security, Employee Relations, Finance, Health, Human Rights, Human Services, Labor and Industry, Military Affairs, Natural Resources, Pollution Control, Public Safety, Public Service, Revenue, Trade and Economic Development, Transportation, and Veterans Affairs.

Additional reports relevant to performance reporting:

- PR95-22 *Development and Use of the 1994 Agency Performance Reports*, July 1995
PR95-23 *State Agency Use of Customer Satisfaction Surveys*, October 1995

Evaluation reports and reviews of agency performance reports can be obtained free of charge from the Program Evaluation Division, Centennial Office Building, First Floor South, Saint Paul, Minnesota 55155, 612/296-4708. A complete list of reports issued is available upon request. Full text versions of recent reports are also available at the OLA web site: <http://www.auditor.leg.state.mn.us/ped2.htm>.